



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 41] नई दिल्ली, अक्टूबर 14—अक्टूबर 20, 2018, शनिवार/आश्विन 22—आश्विन 28, 1940
No. 41] NEW DELHI, OCTOBER 14—OCTOBER 20, 2018, SATURDAY/ASVINA 22—ASVINA 28, 1940

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक एवं प्रशिक्षण विभाग)

नई दिल्ली, 5 अक्टूबर, 2018

का.आ. 1487.—केंद्रीय सरकार एतद्वारा दिल्ली विषेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केरल राज्य सरकार, गृह विभाग, तिरुवंतपुरम की दिनांक 27 अक्टूबर, 2017 की अधिसूचना संख्या जी ओ (एमएस) 218/2017/होम द्वारा दी गयी सहमति से पुलिस थाना—कुरुविलानुगड तिरुवंतपुरम, केरल में पंजीकृत वाद अपराध संख्या—948/2017 के अन्वेषण तथा उपरोक्त अपराध से जुड़े हुए मामलों के अन्वेषण के लिए दिल्ली विषेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार संपूर्ण केरल राज्य के संबंध में करती है।

[फा. सं. 228/01/2018—एवीडी—II]

एस. पी. आर त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 5th October, 2018

S.O. 1487.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Kerala Home (M) Department issued vide Notification No. G.O (Ms). No. 218/2017/Home Dated Thiruvananthapuram 27.10.2017 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Kerala for the investigation of offences involved in Crime No. 948/2017 of Kuruvilangad Police Station, registered in connection with illegal human trafficking and the matters related thereto.

[F. No. 228/01/2018-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 5 अक्टूबर, 2018

का.आ. 1488.—केन्द्र सरकार दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए जम्मू एवं कश्मीर राज्य सरकार, सिविल सचिवालय, गृह विभाग, श्रीनगर की अधिसूचना एसआरओ 338 सं. Home/AR/151/2017 दिनांक 8 अगस्त, 2018 द्वारा प्राप्त सहमति से निम्नलिखित प्रथम सूचना रिपोर्ट तथा उनमें उल्लिखित अपराधों के संबंध में या उससे सम्बद्ध प्रयास, दुष्प्रेरणा तथा षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उत्पन्न किन्हीं अन्य अपराध या अपराधों का अन्वेषण एवं जाँच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण जम्मू एवं कश्मीर राज्य में करती है:—

- (1) प्रथम सूचना रिपोर्ट सं. 11/2018 पुलिस स्टेशन VOJ u/s 5(2) PC Act Svt 2006 r/w 3/25 Arms Act.
- (2) प्रथम सूचना रिपोर्ट सं. 18/2018 पुलिस स्टेशन VOK u/s 5(2) PC Act Svt 2006, 120-B RPC और 3/25 Arms Act.

[फा. सं. 228/41/2018—एवीडी —II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 5th October, 2018

S.O. 1488.—In exercise of the powers conferred by sub section(1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Jammu and Kashmir, Civil Secretariat, Home Department, Srinagar issued vide Notification SRO 338 No. Home/AR/151/2017 dated 8th August, 2018, hereby extends the powers and jurisdiction of the Members of Delhi Special Police Establishment in the whole of the State of Jammu and Kashmir to investigate and inquire into the offences and attempts, abetments and conspiracies in relation to or in connection with the offences in the below mentioned FIRs and in other offences committed in the course of same transaction(s) or arising out of the same facts :-

1. Case FIR No. 11/2018 P/S VOJ under Section 5(2) P.C. Act Svt. 2006 r/w Section 3/25 Arms Act.
2. Case FIR No. 18/2018 P/S VOK under Section 5(2) P.C. Act Svt. 2006, 120-B RPC and Section 3/25 Arms Act.

[F. No. 228/41/2018-AVD-II]

S. P. R. TRIPATHI, Under Secy.

विदेश मंत्रालय
(सी.पी.वी. प्रभाग)

नई दिल्ली, 5 अक्टूबर, 2018

का.आ. 1489.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, दुबई में श्री जितेन्द्र, सहायक अनुभाग अधिकारी को दिनांक 5 अक्टूबर 2018 से सहायक कौंसुलर अधिकारियों के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/03/2018]

प्रकाश चन्द, निदेशक (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 5th October, 2018

S.O. 1489.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Jitendra, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Dubai to perform the Consular services with effect from 5th October 2018.

[No. T. 4330/03/2018]

PRAKASH CHAND, Director (Consular)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 11 अक्टूबर, 2018

का.आ. 1490.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

| क्र. सं. | लाइसेंस सं | स्वीकृत करने की तिथि वर्ष/ माह | लाइसेंसधारी का नाम व पता | भारतीय मानक का शीर्ष | भा मा सं (भाग/ अनुभाग) : वर्ष |
|----------|------------|--------------------------------|---|---|-------------------------------|
| 1. | 6500033809 | 20180717 | मेसर्स राजा स्टील्स प्रायवेट लिमिटेड एस एफ सं 123/1, तिरुमलयमपालयम, वेलन्दावलम रोड, मदुक्करै, कोयम्बतूर- 641 105. | कंक्रीट प्रबलन के लिए उच्च शक्ति विरुपित इस्पात सरिए एवं तार | IS 1786 : 2008 |
| 2. | 6500033708 | 20180731 | मेसर्स रामदेव्स मोटर्स एस एफ सं 231,3A,3B,4A, शांति गियर्स फौन्ड्री रोड, कोयम्बतूर- 641 402 | कृषि और पानी की आपूर्ति के उद्देश्य के लिए साफ, शीतल जल के लिए मोनोसेट पम्प | IS 9079 : 2002 |

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|----|------------|----------|--|---|----------------|
| 3. | 6590006416 | 20180731 | मेसर्स श्री अम्मन ज्वेलरी सं. 2, ईश्वरन कोविल स्ट्रीट, तिरुप्पुर – 641 604 | स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/ शिल्पकारी – शुद्धता एवं मुहरांकन | IS 1417 : 2016 |
| 4. | 6590006517 | 20180731 | मेसर्स वैश्रवी तंगा मालिगै 419, मुख्य सड़क, पेरुन्दुरै, ईरोड – 638 052. | स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/ शिल्पकारी – शुद्धता एवं मुहरांकन | IS 1417 : 2016 |

[सं. सी एम डी/13 : 11]

मीनाक्षी गणेशन, वैज्ञानिक 'एफ' एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 11th October, 2018

S.O. 1490.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

SCHEDULE

| Sl. No. | Licence No. | Grant Date | Name and Address (Factory) of the Party | Title of the Standard | IS No. Part/ Sec. Year |
|---------|-------------|------------|---|--|------------------------|
| 1. | 6500033809 | 20180717 | M/s. Raja Steels Private Limited SF No. 123/1, Thirumalayampalayam, Velanthavalam Road, Madukkarai, Coimbatore – 641 105. | High Strength Deformed Steel Bars and Wires for Concrete Reinforcement | IS 1786 : 2008 |
| 2. | 6500033708 | 20180731 | M/s. Ramdevs Motors SF No. 231,3A,3B,4A,Shanthi Gears Foundry Road, Coimbatore – 641 402 | Electric Monoset Pumps for Clear, Cold Water for Agricultural and Water Supply Purposes | IS 9079 : 2002 |
| 3. | 6590006416 | 20180731 | M/s. Sri Amman Jewellery No. 2, Easwaran Kovil Street, Tirupur – 641 604 | Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking | IS 1417 : 2016 |
| 4. | 6590006517 | 20180731 | M/s. Vaishnave Thanga Maligai 419, Main Road, Perundurai, Erode – 638 052. | Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking | IS 1417 : 2016 |

[No. CMD/13:11]

MEENAKSHI GANESAN, Scientist 'F' & Head

नई दिल्ली, 11 अक्टूबर, 2018

का.आ. 1491.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

| क्र. सं. | लाइसेंस सं | स्वीकृत करने की तिथि वर्ष/ माह | लाइसेंसधारी का नाम व पता | भारतीय मानक का शीर्ष | भा मा सं (भाग/ अनुभाग) : वर्ष |
|----------|------------|--------------------------------|--|--|-------------------------------|
| 1. | 6590006618 | 20180807 | मेसर्स वारुणि ज्वेल्स पुराना सं. 124, नया सं. 167, ए एल जी हाउस, रेस कॉर्स, कोयम्बतूर – 641 018 | स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/ शिल्पकारी – शुद्धता एवं मुहरांकन | IS 1417 : 2016 |

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|----|------------|----------|--|---|-----------------|
| 2. | 6500034104 | 20180821 | मेसर्स ए वी एम पाइप्स एस एफ सं. 119, किलाकाला तोडूम, हॉस्पिटल स्ट्रीट, सरवनमपट्टी, कोयम्बतूर – 641 035 | पेयजल आपूर्ति के लिए अप्लास्टिक पी वी सी पाइप | IS 4985 : 2000 |
| 3. | 6500033910 | 20180827 | मेसर्स देवकृष एक्वा सिस्टम्स 743-1A, श्री एम के के एन्क्लेव, मरापेट्टे रोड, पोल्लाची, कोयम्बतूर – 642 001 | पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा) | IS 14543 : 2016 |
| 4. | 6500034003 | 20180828 | मेसर्स श्री अम्मन एक्वा 141-A, पी के जी ऑयल मिल के पीछे, चेन्नमलै रोड, कान्गायम, तिरुप्पुर – 638 701 | पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा) | IS 14543 : 2016 |

[सं. सी एम डी/13 : 11]

मीनाक्षी गणेशन, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 11th October, 2018

S.O. 1491.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

SCHEDULE

| Sl. No. | Licence No. | Grant Date | Name and Address (Factory) of the Party | Title of the Standard | IS No. Part/ Sec. Year |
|---------|-------------|------------|--|--|------------------------|
| 1. | 6590006618 | 20180807 | M/s. Vaaruni Jewels Old No. 124, New No. 167, ALG House, Race Course, Coimbatore – 641 018 | Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking | IS 1417 : 2016 |
| 2. | 6500034104 | 20180821 | M/s. AVM Pipes SF No. 119, Kilakkala Thottam, Hospital Street, Saravanampatti, Coimbatore – 641 035 | Unplasticized PVC Pipes for Potable Water Supplies | IS 4985 : 2000 |
| 3. | 6500033910 | 20180827 | M/s. Devkrish Aqua Systems 743-1A, Shri MKK Enclave, Marapettai Road, Pollachi , Coimbatore – 642 001 | Packaged Drinking Water (other than Packaged Natural Mineral Water) | IS 14543 : 2016 |
| 4. | 6500034003 | 20180828 | M/s. Sri Amman Aqua 141-A, PKG Oil Mill Backside, Chennimalai Road, Kangayam, Tirupur – 638 701 | Packaged Drinking Water (other than Packaged Natural Mineral Water) | IS 14543 : 2016 |

[No. CMD/13:11]

MEENAKSHI GANESAN, Scientist 'F' & Head

नई दिल्ली, 11 अक्टूबर, 2018

का.आ. 1492.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

| क्र. सं. | लाइसेंस सं. | स्वीकृत करने की तिथि वर्ष/ माह | लाइसेंसधारी का नाम व पता | भारतीय मानक का शीर्ष | भा मा सं (भाग/ अनुभाग) : वर्ष |
|----------|-------------|--------------------------------|--|---|-------------------------------|
| 1. | 6500034205 | 20180905 | मेसर्स अजन्ता प्लास्ट 6/174, ऊतुकुली रोड, पगलयूर, विजयामंगलम (पोस्ट), पेरुन्दुरै, ईरोड - 638 056 | सिंचाई उपस्कर - उत्सर्जकी पाइप पद्धतियाँ | IS 13488 : 2008 |
| 2. | 6500034306 | 20180906 | मेसर्स केपिटल इंडस्ट्रीस एस एफ सं. 632/3B-3, के एस एन इंडस्ट्रियल एस्टेट, मोलापालयम रोड, वेल्लानैपट्टी, कोयम्बतूर- 641 048 | एक फेजी छोटी ए.सी. और यूनिवर्सल बिजली के मोटर | IS 996 : 2009 |
| 3. | 6590006820 | 20180906 | मेसर्स मीता ज्वेलरी 426-430, त्रिची रोड, सिंगनलूर, एस वी आई के पास, कोयम्बतूर - 641 005 | चाँदी एवं चाँदी मिश्रधातुएं, आभूषण/ शिल्पकारी - शुद्धता एवं मुहरांकन | IS 2112 : 2014 |
| 4. | 6590006719 | 20180906 | मेसर्स कैलैराजन कॉपरेशन दुकान सं. 6, पहला माला, कॉपरेशन कॉम्प्लेक्स, (श्री कृष्णा स्वीट्स के ऊपर), क्रॉस कट रोड, गाँधीपुरम, कोयम्बतूर - 641 012 | स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/ शिल्पकारी - शुद्धता एवं मुहरांकन | IS 1417 : 2016 |
| 5. | 6590006921 | 20180907 | मेसर्स श्री भगवती सिल्वर्स 714-716, वासवी टॉवर्स, राजा स्ट्रीट, कोयम्बतूर - 641 001 | चाँदी एवं चाँदी मिश्रधातुएं, आभूषण/ शिल्पकारी - शुद्धता एवं मुहरांकन | IS 2112 : 2014 |
| 6. | 6500034710 | 20180920 | मेसर्स मिलकी मिस्ट डॉयरी फुड प्रायवेट लिमिटेड एस एफ 43/1-4, एस एफ 65/1, 2, 3, 4B, 7B, 8, 9, 10B, 11B, 12B, 14B, 15B, पट्टाकारमपालयम गाँव, पेरुन्दुरै, ईरोड - 638 057 | मलाईरहित दूध पाऊंडर - भाग 1 - सामान्य ग्रेड | IS 13334 (Part1) : 2014 |
| 7. | 6500034609 | 20180920 | मेसर्स वासन्ती इंजीनियरिंग सं. 5/79-5, वेल्लानैपट्टी मुख्य सडक, वेल्लानैपट्टी, कोयम्बतूर - 641 048 | गहरे कुओं के लिए निम्नजनीय पम्पसेट | IS 14220 : 1994 |
| 8. | 6500034508 | 20180920 | मेसर्स वित्थ्या एग्रो इंडस्ट्रीस 97, अम्मनकुलम रोड, पी. एन. पालयम, कोयम्बतूर - 641 037 | निम्नजनीय पम्पसेट | IS 8034 : 2002 |

| | | | | | |
|-----|------------|----------|---|---|-----------------|
| 9. | 6500034407 | 20180920 | मेसर्स वित्या एग्रो इंडस्ट्रीस 97, अम्मनकुलम रोड, पी. एन. पालयम, कोयम्बतूर - 641 037 | निम्नजनीय पम्पसेट के लिए मोटर | IS 9283 : 2013 |
| 10. | 6590007014 | 20180920 | मेसर्स स्कै गोल्ड 10/688 C4D, वाडिपेट, गूडलूर बाज़ार, गूडलूर, नीलगिरीस - 643 211 | स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/ शिल्पकारी - शुद्धता एवं मुहरांकन | IS 1417 : 2016 |
| 11. | 6500034811 | 20180927 | मेसर्स सी आर मोटर्स प्रायवेट लिमिटेड सं. 1, नन्जप्पा गौन्डर स्ट्रीट, तेक्कू तोट्टम, लिगनूर पोस्ट, पी.एन. पुदुर, कोयम्बतूर- 641 041 | लाइन ऑपरेटड तीन फेजी ए.सी. मोटर (आई ई कोड) "दक्षता वर्गीकरण एवं कार्यकारिता विशिष्ट" | IS 12615 : 2018 |

[सं. सी एम डी/13 : 11]

मीनाक्षी गणेशन, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 11th October, 2018

S.O. 1492.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

SCHEDULE

| Sl. No. | Licence No. | Grant Date | Name and Address (Factory) of the Party | Title of the Standard | IS No. Part/ Sec. Year |
|---------|-------------|------------|---|---|------------------------|
| 1. | 6500034205 | 20180905 | M/s. Ajantha Plast 6/174, Uthukuli Road, Pagalayur, Vijayamangalam (P.O.), Perundurai, Erode - 638 056 | Irrigation Equipment - Emitting pipes system | IS 13488 : 2008 |
| 2. | 6500034306 | 20180906 | M/s. Capital Industries SF No. 632/3B-3, KSN Industrial Estate, Molapalayam Road, Vellanaipatti, Coimbatore - 641 048 | Single phase a.c. Induction Motors for General Purpose | IS 996 : 2009 |
| 3. | 6590006820 | 20180906 | M/s. Meena Jewellery 426-430, Trichy Road, Singanallur, Near SBI, Coimbatore - 641 005 | Silver and Silver Alloys, Jewellery/Artefacts - Fineness and Marking | IS 2112 : 2014 |
| 4. | 6590006719 | 20180906 | M/s. Kailairajan Corporation Shop No. 6, 1 st Floor, Corporation Complex, (Above Sri Krishna Sweets), Cross Cut Road, Gandhipuram, Coimbatore - 641 012 | Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking | IS 1417 : 2016 |
| 5. | 6590006921 | 20180907 | M/s. Sri Bhagavathi Silvers 714-716, Vasavi Towers, Raja Street, Coimbatore - 641 001 | Silver and Silver Alloys, Jewellery/Artefacts - Fineness and Marking | IS 2112 : 2014 |

| | | | | | |
|-----|------------|----------|---|---|-------------------------|
| 6. | 6500034710 | 20180920 | M/s. Milky Mist Dairy Food Private Limited SF 43/1-4, SF 65/1,2,3,4B,7B,8,9,10B,11B,12B, 14B,15B, Pattakampalayam Village, Perundurai, Erode – 638 057 | Skimmed Milk Powder – Part 1: Standard Grade | IS 13334 (Part 1): 2014 |
| 7. | 6500034609 | 20180920 | M/s. Vasanthi Engineering No.5/79-5, Vellanaipatti Main Road, Vellanaipatti, Coimbatore – 641 048 | Openwell Submersible Pumpsets | IS 14220 : 1994 |
| 8. | 6500034508 | 20180920 | M/s. Vithya Agro Industries 97, Ammankulam Road, P. N. Palayam, Coimbatore - 641 037 | Submersible Pumpsets | IS 8034 : 2002 |
| 9. | 6500034407 | 20180920 | M/s. Vithya Agro Industries 97, Ammankulam Road, P. N. Palayam, Coimbatore - 641 037 | Motors for Submersible Pumpsets | IS 9283 : 2013 |
| 10. | 6590007014 | 20180920 | M/s. Sky Gold 10/688 C4D, Vadipet, Gudalur Bazaar, Gudalur, Nilgiris – 643 211 | Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking | IS 1417 : 2016 |
| 11. | 6500034811 | 20180927 | M/s. C R Motors Private Limited No. 1, Nanjappa Gounder Street, Therkku Thottam, Liganur Post, P.N.Pudur, Coimbatore – 641 041 | Line Operated Three Phase a.c. Motors (IE CODE) “Efficiency Classes and performance | IS 12615 : 2011 |

[No. CMD/13:11]

MEENAKSHI GANESAN, Scientist ‘F’ & Head

नई दिल्ली, 11 अक्टूबर, 2018

का.आ. 1493.— भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियमन 5 के उपविनियमन (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है:—

अनुसूची

| क्र. सं. | लाइसेंस सं सी एम/ एल- | लाइसेंसधारी का नाम व पता | स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक | रद्द होने की तिथि |
|--------------------|-----------------------|--------------------------|--|-------------------|
| जुलाई 2018 - शून्य | | | | |

[सं. सी एम डी/13 : 13]

मीनाक्षी गणेशन, वैज्ञानिक ‘एफ’ एवं प्रमुख

New Delhi, the 11th October, 2018

S.O. 1493.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/ suspended with effect from the date indicated against each:

SCHEDULE

| Sl. No. | Licence No. CM/L- | Name & Address of the Licensee | Article/ Process with relevant Indian Standard covered by the licence cancelled/ suspension | Date of Cancellation |
|------------------------|-------------------|--------------------------------|---|----------------------|
| JULY 2018 - NIL | | | | |

[No. CMD/13:13]

MEENAKSHI GANESAN, Scientist 'F' & Head

नई दिल्ली, 11 अक्टूबर, 2018

का.आ. 1494.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियमन 5 के उपविनियमन (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/ स्थगित कर दिया गया है:—

अनुसूची

| क्र. सं. | लाइसेंस सं सी एम/ एल- | लाइसेंसधारी का नाम व पता | स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक | रद्द होने की तिथि |
|---------------------------|-----------------------|--------------------------|--|-------------------|
| अगस्त 2018 - शून्य | | | | |

[सं. सी एम डी/3 : 13]

मीनाक्षी गणेशन, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 11th October, 2018

S.O. 1494.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/ suspended with effect from the date indicated against each:

SCHEDULE

| Sl. No. | Licence No. CM/L- | Name & Address of the Licensee | Article/ Process with relevant Indian Standard covered by the licence cancelled/ suspension | Date of Cancellation |
|--------------------------|-------------------|--------------------------------|---|----------------------|
| AUGUST 2018 - NIL | | | | |

[No. CMD/13:13]

MEENAKSHI GANESAN, Scientist 'F' & Head

नई दिल्ली, 11 अक्टूबर, 2018

का.आ. 1495.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियमन 5 के उपविनियमन (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है:—

अनुसूची

| क्र. सं. | लाइसेंस सं सी एम/ एल- | लाइसेंसधारी का नाम व पता | स्थगित किए गए/ रद्द किए गए लाइसेंस के अंतर्गत वस्तु/ प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक | रद्द होने की तिथि |
|---------------------|--------------------------|-----------------------------|---|----------------------|
| सितंबर 2018 - शून्य | | | | |

[सं. सी एम डी/13 : 13]

मीनाक्षी गणेशन, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 11th October, 2018

S.O. 1495.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/ suspended with effect from the date indicated against each:

SCHEDULE

| Sl. No. | Licence No. CM/L- | Name & Address of the Licensee | Article/ Process with relevant Indian Standard covered by the licence cancelled/ suspension | Date of Cancellation |
|----------------------|-------------------|--------------------------------|---|----------------------|
| SEPTEMBER 2018 - NIL | | | | |

[No. CMD/13:13]

MEENAKSHI GANESAN, Scientist 'F' & Head

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 11 अक्टूबर, 2018

का.आ.1496.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, श्री ए० के० वस्तानी, प्रान्त अधिकारी, मुंदरा, गुजरात सरकार को राज्य सरकार से मुंदरा – भठिण्डा पाइपलाइन के सक्षम प्राधिकारी के अतिरिक्त कार्यभार मिलने पर गुजरात राज्य क्षेत्र के भीतर उक्त अधिनियम के अधीन, मुंदरा – भठिण्डा पाइपलाइन विस्तार परियोजना के लिए सक्षम प्राधिकारी के कृत्यों का निर्वहन करने के लिए प्राधिकृत करती है

[फा. सं. आर-12031/2/2018-ओआर-I/ई-26406]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 11th October, 2018

S.O. 1496.—In pursuance of Clause (a) of Section 2 of the Petroleum and Mineral Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes Shri A. K. Vastani, Prant Officer, Mundra, on getting the additional charge from the state government, to function as Competent Authority for the Mundra-Bathinda Pipeline Extension Project of HPCL-Mittal Pipelines Limited, under the said Act within the territory of State of Gujarat.

[F. No. R-12031/2/2018-OR-I/E-26406]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 17 अक्टूबर, 2018

का.आ.1497.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में पेट्रोलियम और प्राकृतिक गैस मंत्रालय के प्रषानिक नियंत्रणाधीन सार्वजनिक क्षेत्र के उपक्रमों के निम्नलिखित कार्यालयों को जिनके 80 या अधिक प्रतिषत कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

1. राजबन्ध टर्मिनल,
इंडियन ऑयल कॉर्पोरेशन लिमिटेड,
गांव— राजबन्ध, पोस्ट— दुर्गापुर,
जिला— बर्दवान
पश्चिम बंगाल—713212
2. मालदा डिपो,
इंडियन ऑयल कॉर्पोरेशन लिमिटेड,
मालदा कोर्ट रेलवे स्टेशन के निकट,
पोस्ट— नागेश्वरपुर,
जिला— मालदा,
पश्चिम बंगाल—732142

[सं. 11011/1/2017 (हिन्दी)]

ऊषा बिन्जोला, संयुक्त निदेशक (राजभाषा)

New Delhi, the 17th October, 2018

S.O. 1497.—In Pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the central Government hereby notifies the following offices of the public sector Undertakings under the administrative staff have acquired working Knowledge of Hindi :-

1. Rajbandh Terminal,
Indian Oil Corporation Ltd.
Village – Rajbandh,/ post – Durgapur,
District – Bardwan,
West Bengal – 713212
2. Malda Depot,
Indian Oil Corporation Ltd.
Near Malda Court Railway Station,
Post – Nageshwarpur,
District – Malda,
West Bengal – 732142

[No. 11011/1/2017(Hindi)]

USHA BINJOLA, Jt. Director (OL)

नई दिल्ली, 17 अक्टूबर, 2018

का.आ. 1498.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में पेट्रोलियम और प्राकृतिक गैस मंत्रालय के प्रषानिक नियंत्रणाधीन सार्वजनिक क्षेत्र के उपक्रमों के निम्नलिखित कार्यालयों को जिनके 80 या अधिक प्रतिषत कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

1. गेल (इंडिया) लिमिटेड
हैदराबाद क्षेत्रीय कार्यालय,
मॉड्यूल नं० 105,
प्रथम ताल, एनएसआईसी,
ईएमडीबीपी बिल्डिंग, कमला नगर,
डॉ. ए. एस. राव नगर, ईसीआईएल,
(पोस्ट), हैदराबाद – 500062

[सं. 11011/1/2017 (हिन्दी)]

ऊषा बिन्जोला, संयुक्त निदेशक (राजभाषा)

New Delhi, the 17th October, 2018

S.O. 1498.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the central government hereby notifies the following offices of the public sector Undertakings under the administrative control of the Ministry of Petroleum & Natural Gas, in which 80 or more percent of the staff have acquired working Knowledge of Hindi :-

1. GAIL (India) Ltd.
Hyderabad Regional Office,
Module No. 105, First floor,
NSIC, EMDBP Building,
Kamla Nagar, Dr. A. S. Rao Nagar,
ECIL (Post), Hyderabad

[No. 11011/1/2017(Hindi)]

USHA BINJOLA, Jt. Director (OL)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 26 सितम्बर, 2018

का.आ.1499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, प्रबंधक, भारत इलेक्ट्रॉनिक्स लिमिटेड, माचीलीपट्टनम और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (LC No. 217/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42025/03/2018-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 26th September, 2018

S.O. 1499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC No. 217/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Manager, Bharat Electronics Limited, Machilipatnam and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42025/03/2018-IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 2nd day of August, 2018

INDUSTRIAL DISPUTE L.C. No.217/2004

Between: Sri M.V.S. R Krishna Rao,
D. No.11/794, Vijayaraghava Chambers, Rabertsonpet,
Machilipatnam.

...Petitioner

AND

1. The Manager (Production),
Bharat Electronics Ltd.,
Machilipatnam.

2. The General Manager,
Bharat Electronics Ltd.,
Bangalore.

... Respondents

Appearances:

For the Petitioner : M/s. G. Vidya Sagar, K. Udaya Sree, P. Sudheer Rao & D. Madhusudhan, Advocates

For the Respondent: M/s P. Nageswara Sree, K. Raghuram Reddy & Ch. Venkata Raju, Advocates

AWARD

Sri M.V.S.R. Krishna Rao, who worked as Technician (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Bharat Electronics Ltd., seeking for declaring the proceeding No.422/01/11552/2001-02 dated 11.7.2001 issued by the Respondents as illegal, arbitrary, and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The Brief averments made by the Petitioner in the claim petition are as follows:

The case of the Petitioner in brief is that, the Petitioner joined in service under the Respondent management as a technician in the year 1984. After completion of three years of service on 10.10.1987 the Petitioner was ranked in wage group III with basic pay of Rs.595/- pm. the Petitioner was also confirmed with effect from 9.3.88 in his service basing on his good performance. Since the date of his appointment. The Petitioner has been discharging his duties to the entire satisfaction of his authorities. It is submitted that while the Petitioner was discharging his duties as Wage Group III employee, on 28.3.98 the Respondent issued one notice alleging that the Petitioner absented his regular duties w.e.f. 23.2.1998 to 7.3.1998 on medical grounds and without leave and without any intimation. The Petitioner is deemed to have left the service of the company voluntarily under 9(c) of the Certified Standing Orders. After receipt of the notice the Petitioner submitted an explanation denying the charges levelled against him stating that he was suffering from low back pain for the past two years and he was undergoing treatment from time to time. It is further submitted that without considering the same the Respondents issued charge sheet bearing No.422/01/11552/2000-1 dated 31.1.2001 alleging that (a) unauthorized absence as per Standing Orders 15(1)(e); (b) willful insubordination or disobedience of any lawful orders of the superiors [Standing Orders 15(1)(a)]; (c) Commission of an act of subversive discipline [Standing Order 15 (1) (h)], as per the certified Standing Orders of the company and also within the general meaning of misconduct. After receipt of the charge sheet the Petitioner submitted his explanation through his counsel on 2.2.2001 stating that he has been suffering from low back pain for the last two years and he was getting treatment from time to time and the same was informed to the Respondents' company along with medical certificates. It is also submitted that instead of considering the above explanation submitted by the Petitioner the Respondent passed order for a Departmental enquiry into the alleged unauthorized absence and misconduct and accordingly an inquiry was conducted. It is submitted that after completion of the enquiry the Enquiry Officer submitted the report dated 30.4.2001 holding the charges proved against the Petitioner. The Petitioner submitted that the findings of the Enquiry Officer is illegal, arbitrary and unjust and there was no evidence before the Enquiry Officer to show that the Petitioner has committed all the irregularities as alleged by the Respondents. After receipt of the enquiry report the Petitioner submitted his objection to the enquiry report on 19.5.2001 stating that the Enquiry Officer being biased has caused great injustice to the Petitioner and the Enquiry Officer failed to consider his legal defence and also failed to discuss the material aspects available in the record and reasonable opportunity was not given to the Petitioner to defend his case properly. Subsequently, the Respondent issued show cause notice dated 28.5.2001 proposing major punishment of dismissal from service. It is also submitted that the action of the management in dismissing the Petitioner from service the proceeding dated 11.7.2001 is illegal and arbitrary and unjust. It is further submitted that before passing the order of dismissal, the Respondents have not taken into consideration of the past service record of the Petitioner and the punishment imposed on the Petitioner is too harsh. The only allegation against the Petitioner was that he unauthorizedly absented to his regular duties w.e.f. 23.2.1998 to 7.3.1998 which is not so grave. It is further submitted that the Petitioner preferred an appeal before the Appellate Authority challenging the dismissal order dated 11.7.2001 with a request to reinstate him into service. But the Appellate Authority rejected the appeal without assigning any valid reasons and finding no other alternative after exhausting all the remedies the Petitioner was compelled to file this present application seeking relief mentioned above.

3. **The brief averments of the counter filed by the Respondents are as follows:**

The Respondents filed counter denying the allegations made in the claim statement. The Respondent in its counter has challenged the maintainability of the claim application. It is submitted that the Manager(Production) and the General Manager are the officers of M/s. Bharat Electronics Limited. The Petitioner cannot have any grievance against the above said officers in their individual capacities as well as, the Respondents are not the necessary and proper party to the present proceedings. In any case the Manager (Production) and the General Manager are personally liable to pay any amounts to the Petitioner. It is also stated that the averments made by the Petitioner in his claim statement is not correct. The stand of the Petitioner that he worked continuously in his duty from the date of his joining without any unblemished record is not correct. Previously the Petitioner suffered the punishment of stoppage of 3 increments vide order No.422/11552/19999/531 dated 6.5.99 for the proved misconduct of absence without leave from 9.3.1998 vide memo No.422/01/11552/98, dated 28.3.1998. The Petitioner had also suffered the punishment of demotion to the next lower grade i.e., to the grade of Wage IV vide order No.422/01/11552/2000-2001 for proved misconduct of engaging himself in private trade or business and unauthorized absence from duty vide charge No.422/01/11552/1999 dated 24.7.1999. Therefore, the contention of the Petitioner that he worked continuously without any break from service is totally false. Sufficient opportunity had been given to the Petitioner to participate in the domestic enquiry. The Petitioner has participated in the enquiry and after recording the evidence of both the sides the Enquiry Officer has submitted his report. The Respondent management basing on the enquiry report has passed the order of dismissal. The Petitioner is not entitled to get any relief including the relief of reinstatement into service. The management has rightly taken the decision for dismissal of the Petitioner from service. The allegation of the Petitioner is false and frivolous. The management has rightly passed the order considering all the aspect which needs no interference.

4. The domestic enquiry conducted in this case by the Respondents was challenged by the Petitioner and after hearing both the sides, this court held the domestic enquiry conducted by the management as legal and valid vide order dated 23.7.2009.

5. I have already heard the counsels for both the sides in this matter.

6. **In view of the pleadings of both the parties, the following points are required to be determined:**

I. Whether the action of the management of M/s. Bharat Electronics Ltd., in dismissing the Petitioner Sri M.V.S.R. Krishna Rao, w.e.f. 11.7.2001 vide proceedings No.422/01/11552/2001-02 dated 11.7.2001 is legal and justified?

II. If not, to what relief the Petitioner is entitled for?

7. **Point No.I:** The Learned Counsel appearing on behalf of the Petitioner submitted that the Petitioner joined in the service of the Respondents' management as a technician apprentice in the year 1984 and after completion of 3 years of service on 10.10.88 he was ranked in the wage Group III, and basing on his good performance, his appointment was confirmed w.e.f. 9.3.88 as Wage Group III employee and since the date of his appointment the Petitioner was discharging his duties to the entire satisfaction of his superiors. While the Petitioner was in duty, as a wage Group III employee, the Respondents issued one memo on 28.3.98 alleging that the Petitioner absented in his duty w.e.f. 23.2.1998 to 7.3.1998 on medical grounds and without leave and without any intimation. The Management also issued charge sheet to the Petitioner who had submitted his explanation to the charge sheet given by the Respondents' management. But the Respondents' management conducted one domestic enquiry. Though in the domestic enquiry, the Petitioner had participated, but the enquiry was not conducted fairly following the principles of natural justice, and without considering the submission of the Petitioner, the Enquiry Officer held the charges levelled against the Petitioner were proved and submitted his report. The Petitioner submitted his explanation to the enquiry report and it was not considered by the Disciplinary Authority, and order was passed for dismissal of the Petitioner from service. The Petitioner preferred an appeal before the Appellate Authority which was also not considered. While passing the order, the Respondents did not consider the past conduct of the Petitioner who had an unblemished service career. The Learned Counsel of the Petitioner also submitted that the Petitioner was suffering from acute low back pain and was undergoing treatment in the hospital from time to time. After his dismissal from service he has been facing severe financial constraints and has been facing difficulties in eaking out his livelihood as because he has faced mental agony towards financial problem. The punishment imposed on the Petitioner is highly disproportionate to the gravity of the alleged charges and the order of dismissal passed by the Respondents' management is irregular, untenable and unconstitutional and opposed to public policy. The order of dismissal is in violation of the principles of natural justice. As the Petitioner

was not given reasonable opportunity to submit his defence such an order was passed. He further contended that the Petitioner is the sole earning member of his family, unless the Petitioner is reinstated into service he will put to serious and irreparable loss. In support of his contentions he relied on a decision of the Hon'ble Apex Court reported in the case of Chhel Singh Vs. Gramin Bank reported in 2014 (13) SCC page 166, wherein their Lordships held that, neither the Disciplinary Authority nor the inquiry authority had held that the medical certificates submitted by the Petitioner herein were forged or fabricated and that in absence of such evidence and finding, it was not open to the inquiry or the Disciplinary Authority to disbelieve the medical certificates without any valid reason. As such his contentions in the present case, is that though the Petitioner has submitted his medical certificates to the Respondent management. but, without taking the same into consideration, the Enquiry Officer proceeded to hold that the charges against the Petitioner were held proved. He also relied on another decision of the Hon'ble Apex Court, decided in the case of Chairman cum Managing Director, Coal India Ltd., Vs. Mukul Kumar Choudhri reported in 2009(15) SCC 620, wherein it was contended that in the above case the apex Court had considered a similar case of unauthorized absence wherein the employee was removed from service. The Hon'ble Court framed an issue at para 15 of the judgement stating that whether the punishment of removal from service is disproportionate to the proved charge of unauthorized absence for more than six months? The Hon'ble Court after referring to various charge sheeted employee laws regarding the doctrine of proportionality has held in para -20 of the judgement that one of the tests applied while dealing with the quantum of punishment: would be any reasonable employer have imposed such punishment in like circumstances, and that obviously a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment. Thereafter, the Hon'ble Supreme Court set aside the order of removal from service and directed reinstatement of the Petitioner into service. As per his contention in the given case, the period of unauthorized absence is from 23.2.98 to 7.3.98, i.e., about one month, due to such absence no pecuniary loss is caused to the Respondents' company. The punishment imposed on the Petitioner is too harsh basing on the gravity of the charge levelled against the Petitioner. therefore, the order of dismissal is liable to be set aside in view of the orders of the Hon'ble Apex Court. He also relied on another decision decided in the case of Bhagwan Lal Arya Vs. Commissioner of Police, Delhi (2004 (4) SCC 560) wherein their Lordships held that unauthorized absence for more than 2 months on the ground of medical benefits can not be termed as grave misconduct and thus, the order of dismissal from service is disproportionate to the charges alleged. The Learned Counsel further submitted that in view of the decisions of the Hon'ble Apex Court, the punishment imposed on the Petitioner is disproportionate and the same is liable to be set aside. The Petitioner has already rendered more than 16 years of service with the Respondents' and since the date of his appointment i.e., 1984 to 11.7.2001, till the punishment order without any break. The Respondents imposed major punishment of dismissal from service which is illegal arbitrary and unjust. It is submitted to set aside the dismissal order and direct the Respondents to reinstate the Petitioner into service with full back wages and all other attendant benefits.

8. On the other hand, the Learned Counsel for the Respondents submitted that the Petitioner was in the habit of remaining unauthorizedly absent. The Petitioner has not come to the court with clean hand. The Petitioner has not disclosed about his past conduct. Previously due to unauthorized absence he has been given punishment for stoppage of three increments vide order No. 422/11552/1999/531 dated 6.5.99 for the proved misconduct of absence without leave from 9.3.1998 vide memo No.422/01/11552/98, dated 28.3.1998. The Petitioner also suffered the punishment of demotion to the next lower grade i.e., to the grade of Wage IV vide order No.422/01/11552/2000-2001 for proved misconduct of engaging himself in the private trade or business and unauthorized absence from duty vide charge No.422/01/11552/1999 dated 24.7.1999. The Petitioner was not regular to his duties. The stand of the Petitioner that he worked continuously without any break from service is totally false and he had an unblemished character is also not correct. The Respondents management has considered the past conduct of the Petitioner and imposed the punishment. The enquiry was conducted by the management by following the principles of natural justice. The Petitioner has fully participated in the enquiry and put forth his grievances before the Enquiry Officer who, after considering all the matters available before him has submitted his report holding the charges levelled against the Petitioner as proved. Sufficient opportunity had been given to the Petitioner to participate in the domestic enquiry and submit his explanation to the enquiry report. After receipt of the explanation of the Petitioner the Disciplinary Authority was agreed to the findings of the Enquiry Officer and passed the order of punishment for dismissal from service. The Appellate Authority after considering all the aspects rejected the appeal. The Respondents management has rightly passed the dismissal order which needs no interference.

9. On consideration of the rival contentions of both the sides it is noticed that the enquiry conducted by the management was challenged before this Tribunal and after considering all the aspects this Tribunal has

held that the domestic enquiry conducted by the Respondents' management is legal and valid. It is seen that the Department has conducted the enquiry following the principles of natural justice and the Petitioner has been given ample opportunity to put forth his grievances before the Respondents management. The Petitioner has stated that he had unblemished service career. But, during the course of enquiry, the Petitioner has disclosed that previously he had been punished on the allegation of unauthorized absence, and there was stoppage of three increments and also he had been punished for the charges of misconduct about his involvement in private trade or business. Though for the last time he has been punished only for unauthorized absence but the Respondents management after considering all the past conduct of the Petitioner has passed the order. If the employee of the management will act violating the rules and guidelines of the management, and will not be dutiful obviously the management will be collapsed, and there will be no discipline in the Department. If lenient view will be taken against a wrong doer, obviously others will be encouraged to commit similar offences and the management can not run smoothly. The Petitioner has not come to the court in clean hand and has not disclosed his past conduct. When the Petitioner has not come to the court with clean hands he should not expect to get equitable relief. Therefore in this case, no reasonable grounds are available to take any lenient view in favour of the Petitioner and it is held that the management has rightly passed the dismissal order which needs no interference.

Thus, Point No.I is answered accordingly.

10. Point No.II: In view of the findings given in Point No.I, the Petitioner is not entitled to get any relief. Hence, order.

Thus, Point No.II is answered accordingly.

ORDER

The action of the management of M/s. Bharat Electronics Ltd., in dismissing the Petitioner Sri M.V.S.R. Krishna Rao, w.e.f. 11.7.2001 vide proceedings No.422/01/11552/2001-02 dated 11.7.2001 is legal and justified. Hence, the Petitioner is not entitled for any relief.

Award is passed accordingly.

Dictated to Smt P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 2nd day of August, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 26 सितम्बर, 2018

का.आ.1500.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, क्षेत्रीय प्रबंधक, लार्सन एंड टुब्रो लिमिटेड, हैदराबाद-8 और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (LC No. 138/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42025/03/2018-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LC No. 138/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the a Industrial dispute between the employers in relation to the Regional Manager, Larsen & Toubro Limited, Hyderabad and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42025/03/2018– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: Sri Muralidhar Pradhan , Presiding Officer

Dated the 10th day of August, 2018

INDUSTRIAL DISPUTE L.C.No.138/2006

Between:

Sri Rajesh Kumar Yadav,

S/o Seetaram Yadav,

Ro H.No.2-98, Main Road, Nanakaramguda,

Sherlingampally Mandal,

Hyderabad.

... Petitioner

AND

1. The Regional Manager,
M/s. Larsen & Toubro Limited,
ECC Division, D.No.6-3-1109/1,
Navbharat Chamber, Rajbhavan Road,
Hyderabad – 8.

2. The Project Manager,
M/s. Larsen & Toubro Limited,
ECC Division, Microsoft Campus site,
Building No.3, Gachibouli,
Hyderabad

..Respondents

Appearances:

For the Petitioner : M/s. K. Ajay Kumar, Sudha, & M. Govind. Advocates

For the Respondent: M/s. G. Vidyasagar, K. Udayasree, P. Sudheer Rao & D. Madhusudhan,
Advocates

AWARD

Sri Rajesh Kumar Yadav who worked as Driver (who will be referred to as workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Larsen & Toubro Limited seeking for declaring the oral termination order dated 17.7.2006 issued by the Respondent management as illegal, arbitrary and to set aside the same consequently directing the Respondent to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner joined as Driver in the Respondent management in the year 1994 and was discharging his duties as per the instruction of the superiors and working continuously there with clean record of service and as such he was working to the utmost satisfaction of his superiors. The Petitioner worked with the Respondents on various sites and worked for more than 240 days in each completing year. The Respondent terminated the service of the Petitioner on 28.12.2002 for which he raised the dispute before this Tribunal which was numbered as ID No.7/2005. It is submitted that during the pendency of the above dispute, the Respondent reinstated the Petitioner into service and provided all the benefits, the Petitioner did not contest the above dispute and this court passed a nil award by an order dated 31.1.2006. It is further stated that on 17.7.2006 while the Petitioner was in service, the second Respondent orally terminated the service of the Petitioner which is illegal, unjust and contrary to the law and amounts to retrenchment as per the provisions of the Industrial Disputes Act, 1947. It is also stated that on 18.7.2006, the Petitioner reported to duty and requested to Respondent No.2 for permission to discharge his duties. The Respondent No.2 did not permit the Petitioner to discharge his duties with effect from 18.7.2006. The Petitioner submitted that though he has approached several times to the Respondents management the Respondent did not permit the Petitioner to discharge his duties. When all his efforts were vain, the Petitioner made representation on 26.7.2006 to the Deputy Commissioner of Labour, Ranga Reddy District Circle, Hyderabad who issued notice to the Respondents and tried to arrange a meeting of conciliation, and asked the Respondents for reply. But the Respondents did not submit any reply and the matter was not settled there. The Petitioner has submitted that the Respondents through People Care Consulting sent a demand draft No.038071 dated 11.8.2006 for Rs.5512/- towards full and final settlement of the dispute. It is further submitted that after the termination of service of the Petitioner, the Respondents' management had neither issued one month prior notice nor paid one month notice pay or retrenchment compensation to the Petitioner. The Respondents terminated the service of the Petitioner by oral order dated 17.7.2006 which is illegal unjust, and contrary to Law and in violation of Sec.25F of the Industrial Disputes Act, 1947. The Petitioner also submitted that the Respondents management have not taken any disciplinary action into any of the charges before terminating the services of the Petitioner. the Petitioner further submitted that he has not committed misconduct nor there was any malafide intention to cause dislocation of work or financial loss to the Respondents' industry. He has never acted against the interest of the Respondents' management. Since the date of termination the Petitioner has never employed anywhere else and due to termination of his service he is unable to provide food and water to his family members. With these averments, the Petitioner submitted to declare the action of the management in terminating the Petitioner from service, orally as illegal and unjustified and direct the Respondents' management to reinstate him into service with continuity of service, back wages and other benefits as the court may deem fit and proper.

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In their counter they have challenged the maintainability of the dispute raised by the Petitioner. It is stated that there is no employer and employee relationship between the Respondents and the Petitioner and as such there is no privity of contract between the parties. The Petitioner was employed by a contractor namely People Care Consultants. As such people's Care Consultants is the proper and necessary party to the present proceedings and its presence is required for adjudicating the matter in dispute. The Petitioner is in habit of making untenable claims with an intention of making unlawful gains. The Petitioner has approached this Tribunal with unclean hands and is guilty of gross suppression of material facts. The allegation made by the Petitioner are totally misconceived and false. It is stated that once the Petitioner was working at various sites of the Respondents as casual labour. The allegation of the Petitioner that he was working under the Respondents at the time of termination of his service is false and the allegation of the Petitioner that he was illegally terminated by oral order is false. The Petitioner has been engaged by the Respondents management for specific project and after completion of that project, the Petitioner was advised not to come. The Petitioner was never deployed as a driver on casual basis at various projects under taken by the Respondents' management from time to time. The allegation of the Petitioner is that he was engaged to work under the Respondents' at various sites and has worked for more than 240 days in each completing year is false. The Petitioner had worked for the project of construction of the Multi Level Car Parking for the Microsoft building from 28.2.2006 till 17.7.2006. The construction of the subject Microsoft site was completed in the month of July, 2006 after which the Petitioner was disengaged. The question of the alleged retrenchment of the Petitioner does not arise. The averment of the Petitioner that he had worked for 240 days continuously is only to maintain the present application. The Petitioner has filed ID No.7/2005 for wrongful gains on false

and created grounds. It is stated that admittedly an amount of Rs.5512/- has been paid to the Petitioner towards notice pay and retrenchment compensation, which was sought to be paid to the Petitioner by the sub contractor. The mandatory requirement under the relevant provision of the Industrial Disputes Act, 1947 has been complied with and the present petition is not maintainable in the eye of law. The allegation of the Petitioner that he has become unemployed is totally false. With the above averments the Respondents submitted for dismissal of the claim of the Petitioner.

4. The Petitioner is examined himself as WW1 and marked seven documents as Ex.W1 to W7. The Respondents' management examined Sri R. Ramana Kumar, Cluster Accounts and Administration Manager as MW1 and Sri Saida Reddy Anumola, Asst. Accounts Manager as MW2 and marked four documents as Exs.M1 to M4 on behalf of the management.

5. I have already heard arguments from both the sides.

6. **The Points for determination are:**

- I. Whether the action of the management of M/s. Larsen & Toubro Limited in terminating the services of Sri Rajesh Kumar Yadav, Driver w.e.f. 17.7.2006 orally is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. The Learned Counsel for the Petitioner contended that the Petitioner was working under the 2nd Respondent in the year 1994 as a Driver. His work was perennial in nature. He worked at various areas of Andhra Pradesh and worked for more than 240 days in a year. The Respondents terminated his service on 28.2.2002 for which the Petitioner raised the dispute before the Central Government Industrial Tribunal cum Labour Court, Hyderabad and the same was numbered as ID 7/2005. During the pendency of the above dispute, the Respondents reinstated the Petitioner into service. He was under the impression that he would get all the benefits for which he did not contest the case and the case was disposed of and a nil award was passed on 31.1.2006. He also contended that without assigning any reason by an oral order dated 17.7.2006, the second Respondent orally terminated the service of the Petitioner. On 18.7.2006, the Petitioner requested Respondent No.2 for permission to join his duties but he did not allow him to work. There after, on 26.7.2006 he made one representation to the Deputy Commissioner of Labour, Ranga Reddy District Circle, Hyderabad who arranged a meeting of the Respondents and the Petitioner. But the Respondents did not turn up. He also contended that the 2nd Respondent through People Care Consulting sent a demand draft bearing No.038071 dated 11.8.2006 for Rs.5512/- towards full and final settlement. But the Respondents' management have neither issued one month prior notice nor paid one month notice pay or retrenchment compensation to the Petitioner while terminating him from service which is illegal, unjust and contrary to the provisions of law and amounts to retrenchment, in violation of Sec.25F of the Industrial Disputes Act, 1947. He further contended that the Respondents' management has not taken any disciplinary action into any of the charges before terminating the services of the Petitioner. The Petitioner has not committed any misconduct nor there was any malafide intention to cause dislocation of work or financial loss to the Respondents' industry. It is also contended that the Petitioner has remained unemployed and due to termination of his service he is unable to provide bread and butter to his family members. Lastly, he contended that this court may set aside the termination order passed by the Respondents' management against the Petitioner and direct the Respondents' management to reinstate him into service.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents contended that in fact the Petitioner has never joined in the service of the Respondents' management in the year 1994 as a Driver. There is no employer and employee relationship between the Respondents' and the Petitioner and as such there is no privity of contract between the parties. The Petitioner was employed by a sub-contractor namely People Care Consultants. The Petitioner has not impleaded the said People's Care Consultants as a party to the present proceedings and its presence is required for adjudicating the matter in dispute. The Petitioner has wantonly avoided to implead the sub-contractor as party in the present proceeding. The case is also liable to be dismissed for non-joinder of necessary parties and mis-joinder of the present Respondents. The Petitioner is not a workman within the meaning of Sec.2(s) of the Industrial Disputes Act, 1947 and as such the present dispute is not maintainable at all. The allegation of the Petitioner that he was illegally terminated from service vide oral order dated 17.7.2006 is totally false. The Petitioner is required to prove this allegation strictly. It is further contended that as the nature of business and activity attached to Respondents No.1 company is of sporadic and intermittent in nature and do not require employees like drivers, etc., on full time basis which was in the practice of deploying such drivers on casual basis at its project site, for each of

its specific projects, so that such deployment lasts during the execution of the project and ceased with the completion of the specific project and such deployment were/or co-terminus with the specific projects. He also contended that such deployments used to be done by the Respondents' company through the contractors/sub-contractors which is necessary expertise in such areas, considering the work and business exigencies, because such activities are incidentally and ancillary to the main construction. Thus, disengagement of such technicians either as a result of completion of the project or the specific work, does not amount to retrenchment within the meaning of Sec.2(oo) of the Industrial Disputes Act, 1947, because they fall under the exception carved out under sub-section (bb) thereof. He also contended that the Petitioner was deployed as a driver on casual basis on various projects undertaken by the first Respondent company from time to time and all such deployments ceased with the cessation of the respective projects. The allegation of the Petitioner that he has worked for the project of construction of the Multi Level Car Parking for the Microsoft building from 28.2.2006 till 17.7.2006 is totally false. The construction of the subject Microsoft site was completed in the month of July, 2006 after which the Petitioner was disengaged. Therefore, the question of the alleged retrenchment of the Petitioner does not arise. The allegation of the Petitioner that he had worked for 240 days continuously is only to maintain the present application. The allegation of the Petitioner that he was terminated from service on 28.12.2002 and during the pendency of ID No.7/2005 he was reinstated into service were totally false. At the time when the Petitioner was working at Ravulapalem and as the work of the said site had come an end, an amount of Rs.5512/- has been paid to the Petitioner towards notice full and final settlement. But the Petitioner had falsely initiated ID No.7/2005. It is further contended that during the pendency of ID No.7/2005 the Petitioner had approached the Respondents on 9.4.2003 stating that he was in dire need of employment to support his family, and requested the management for employment. The Petitioner also undertook that he would withdraw the above case, and it was wrongly filed against the managements. The Petitioner also undertook that he would not file any similar legal case in any court of Law and would not insist for joining service in a particular site of the company. The Petitioner has also executed a letter dated 10.4.2003 to that effect. The above stated ID was dismissed for non-appearance of the Petitioner and again the Petitioner has filed the present petition after completion of the project, apparently with a malafide intention for unlawful gain. The allegation of the Petitioner that he has been terminated from service w.e.f. 17.7.2006 is totally false. When the Petitioner has not been employed by the Respondents' company, the question of removal from service does not arise. It is also contended that the job of construction of the subject building was completed in the month of July, 2006 itself. So there was no question of alleged retrenchment of the Petitioner by the Respondents on completion of the project work. The above said fact was also brought to the notice of the sub-contractor who in turn informed the Petitioner. But the Petitioner has suppressed the above facts and has proceeded to file the present litigation. The allegation of the Petitioner that the Dy. CLC(C), Hyderabad arranged their joint meeting and the Respondents did not attend the meeting is also false. It is also contended that an amount of Rs.5512/- has been paid to the Petitioner towards notice pay and retrenchment compensation, which was sought to be paid to the Petitioner by the sub contractor. The mandatory requirement under the relevant provision of the Industrial Disputes Act, 1947 has been complied with, and the present petition is not maintainable in the eye of law and deserves to be dismissed. It is also submitted that the Petitioner has already taken employment and only filed this petition in order to harass the Respondents.

9. On consideration of the rival contentions of the counsels of both the sides, it is seen that, admittedly, ID No.7/2005 had been filed by the Petitioner as revealed from the copy of the reference available in the case record. The Petitioner has not relied on any document to prove that he had joined under the Respondents in the year 1994. The Petitioner workman in his examination in chief has stated that he joined in the service of the Respondents' management in the year 1994 and he admitted that he has not produced any document to show that he worked with the Respondents since the year 1994 and continued there up to the year 2002. In view of the admission of the workman that he worked under Respondents since 1994 and continued there upto 2002 is not accepted. The documents relied on by the workman shows that he has joined as a driver on temporary and casual basis only. He has joined as a driver but his tenure of employment was casual and temporary @ Rs.100.96 per day and his wage period was fortnightly by order dated 1.1.2002. This clearly shows that he engaged in the service of the Respondents as a casual driver. During the period of his service he had filed an application before the Legal Services Authority under Sec.12(f) of the Legal Services Authority Act, 1987, wherein he has mentioned that he engaged under the Respondents as long back as on 1.1.2002 and worked till 20.6.2002, and was suddenly ousted from service without any reason. The matter was settled before the Chairman, Legal Service Authority by order dated 3.2.2004, wherein it has been from the side of the Respondents that the Petitioner failed to discharge his duty on 27.12.2002 and the Petitioner is removed from service for his insubordination and disobedience and the Petitioner submitted a letter

admitting to withdraw his case. The Petitioner also signed in that settlement receipt. And the Petitioner was advised to move the competent authority to agitate for his rights. And with the above observation the claim of the Petitioner was closed. Similarly, the workman in his cross examination admitted that he has no knowledge of Peoples Care Consultancy. But in his claim petition for workman has admitted that he has received a sum of Rs.5512/- through DD from Peoples Care Consultancy, this shows that the Petitioner has knowledge about the Peoples Care Consultancy but he is reluctant to disclose the above fact. MW1 and MW2 in their evidence have also admitted that the Petitioner was working for the Respondents. MW2 has also specifically admitted that the Petitioner has worked as a casual worker and the management has issued service certificate to the workers. Similarly MW1 admitted about payment of vouchers to the Petitioner under Ex.W8 series. But stated that the signature of the contractor is available in the pay slips. He also he admitted that those pay slips vide Ex.W8 (bunch) are pay slips of the company. He also admitted that Respondent No.2 has issued appointment order vide Ex.W1 in favour of the Petitioner for construction work. MW1 admitted that retrenchment compensation was paid to the Petitioner, but bonus has not been paid and the retrenchment compensation has been paid as per the statute. But he denied to the suggestion of the Petitioner that they have issued temporary appointment order under Ex.W1, so they are bound to issue termination order at the time of terminating the Petitioner. He admitted that as per clause 1-24 hours notice in writing is required to be issued on either side but he is unable to say whether such notice has been served by either parity in this case or not. On consideration of the evidence adduced by both the sides it is made clear that the Petitioner workman was working as a casual driver under Respondents management since the year 2002. But not in between 2002 and 2003, he has been retrenched from service and again as per the intervention of the Legal Services Authority, he was taken into service, and in the year 2006 he was working under a sub-contractor and a sum of Rs.5512/- has been paid to him. Since the Petitioner was working as Driver under the Respondents for the work site, his service had been required regularly. Even though no document has been produced from the side of the Petitioner to show that he has worked for more than 240 days in a year, but considering the nature of duty of a driver, it is to be held that the work of the Petitioner as a driver was perennial in nature, and he had worked for 240 days in a year and the services of the Petitioner were not terminated by following the procedure laid down under Sec.25F of the Industrial Disputes Act, 1947. at the time of termination he should be issued one month notice in writing, indicating the reasons for retrenchment and the Petitioner should have been paid one month wage in lieu of the notice and he was not paid the retrenchment compensation of 15 days average pay for every completed year of service. Therefore, the termination or retrenchment of the Petitioner in this case is in violation of Sec.25F of the Industrial Disputes Act, 1947. Since the Respondents have not given one month notice in writing indicating the reasons for retrenchment and the Petitioner was not paid one month wages in lieu of notice and further the Petitioner was not paid retrenchment compensation of 15 days average pay for every completed year of service. The retrenchment or termination of the Petitioner is illegal. In view of the discussion made above, it is made clear that the termination of service of the Petitioner w.e.f. 17.7.2006 is illegal and not justified and the Respondents are directed to reinstate the Petitioner into service as a casual temporary driver without back wages.

Thus, Point Nos I, II & III are answered accordingly.

ORDER

The termination of service of the Petitioner Sri Rajesh Kumar Yadav, Driver, w.e.f. 17.7.2006 is illegal and not justified and the Respondents are directed to reinstate the Petitioner into service as a casual temporary driver without back wages. The Respondents are also directed to consider the Petitioner for conversion into full time casual driver under the relevant rules and scheme. If, the Petitioner is not entitled or eligible under the said rules for conversion into full time casual labourer the Respondents are at liberty to retrench the Petitioner only by following the procedures laid down for retrenchment under the Industrial Disputes Act, 1947.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 10th day of August, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

WW1; Sri Rajesh Kumar Yadav

Witnesses examined for the
Respondent

MW1: Sri R. Ramana Kumar

MW2: Sri Saida Reddy Anumola

Documents marked for the Petitioner

Ex.W1: Office letter of Respondent company dt.1.1.2002

Ex.W2: Employment card of Respondent company

Ex.W3: Photostat copy of internal communication office letter of Respondent company dt.28.11.2001

Ex.W4: Photostat copy of reference order of Ministry of Labour and Employment dt.28.10.2004

Ex.W5: Photostat copy of representation of WW1 to the Dy.CLC(C) 26.7.2006

Ex.W6: Photostat copy of office lr. of Peoples Care Consultancy, Hyderabad

Ex.W7: Photostat copy of petition u/s.12(f) of L.S.A. Act, 1987 and order of Lok Adalat

Ex.W8: Bunch of Pay slips

Documents marked for the Respondent

Ex.M1: Attendance card for the month of May, 2006

Ex.M2: Attendance card for the month of July, 2006

Ex.M3: Service certificate dt.28.8.2009

Ex.M4: Service certificate dt.28.8.2009

नई दिल्ली, 26 सितम्बर, 2018

का.आ.1501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महाप्रबंधक, बीएसएनएल, पश्चिम गोदावरी जिला, आंध्र प्रदेश एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 60/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-40011/38/2007-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 60/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, BSNL, West Godavari District, Andhra Pradesh and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-40011/38/2007- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**

Present : Sri Muralidhar Pradhan , Presiding Officer

Dated the 30th day of July, 2018

INDUSTRIAL DISPUTE No. 60/2007**Between:**

Sri K.S.R.Murthy,

The District Secretary,

Dondapadu Dibba, Sanivarapu Pet (P.O.)

Eluru – 534003.

...Petitioner

AND

The General Manager,

Telecom Distt.,

Bharat Sanchar Nigam Ltd.,

Eluru,

West Godavari District. (A.P.)

... Respondent

Appearances:

For the Petitioner : Sri R. Yogender Singh, Advocate

For the Respondent : M/s. M.C. Jacob & K. Ajay Kumar, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 40011/38/2007-IR(DU) dated 1.11.2007 referred the following dispute between the management of Bharat Sanchar Nigam Ltd., and their workmen under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the management of BSNL, in engaging the Telecom Mechanics of Group “C” Cadre for doing duties of Group ‘D’ is legal and/or justified? If not, to what relief the workmen are entitled to?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No. 60/2007 and issued notices to both the workmen and the management. They both appeared before the court and engaged their respective counsels with the leave of the court and consent of either party.

2. The averments made in the claim statement in brief are as follows:

The Petitioner being the Secretary of their union representing their members alleged that as per the letter of the Government of India, Ministry of Labour and Employment, New Delhi, Lr. No.L-40011/38/2007-IR(DU) dated 1.11.2007 which was received on 20.11.2007, the Telecom Mechanic cadre is a technical cadre and they should be posted in new technology area exchanges i.e., internal maintenance / external maintenance and local numbers faults and also as per the training given to them as Telecom Mechanic. Vide Department of Telecom, New Delhi Lr. No.27-4/87-TE.II dated 16.10.1990 they have been specified the duties of Telecom Mechanics. The same was reiterated vide DOT Lr. No.29-1/96-TE.II dated 3.4.1996 vide letter of Chief General Manager, Telecom, A.P. Circle, Hyd.Lr. No.TA/STB / 6-5/4 and in the monthly meeting dated 18.11.99, it has been stated that “while promoting the group-D/RMs./etc., officials to the Telecom Mechanic cadre, they are still being allowed to work in the feeder cadre posts, which is highly irregular. The position may be reviewed and necessary action may kindly be taken, so that the Telecom Mechanics are to be posted and utilized in the new technology area. It is stated that the members of the Petitioner union and Branch Secretaries were transferred to rural area exchanges from indoor Group-D to out-door duties in new technology area exchanges on the basis of their promotion to the cadre of Telecom Mechanic and the requests of the officials to retain them in the Group-D duties, in the same station are not considered. For example: Sri V.YV.N. Swamy, G. Durga Rao and Sri G. Balakrishna Prasad etc., were transferred and posted to various rural exchanges in the districts of the Petitioners. It is further stated that in view of the rules and regulations mentioned above some group-D officials working in G.M. Office, Eluru were retained in the same Group-D and were reinstated in the same Group-D duties, after giving promotion in Telecom Mechanics, to make favour to a particular batch of officials and a particular union members with personal interest of the then District Officers. It is also stated that Eight Group-D officials working in G.M. Office, Eluru and who got

promotion to the cadre of Telecom Mechanic., even after completion of training to the cadre of Telecom Mechanic were posted in G.M. Office in Group-D duties. The case of the Petitioner union is that they have challenged the inaction of the Respondent office in utilizing the services of Group-C employees i.e., Telecom Mechanics (TMs) in Group D services inspite of the direction of the Manager and inspite of the vacancy available in Group-C cadre. It is further stated that there were 75 vacancies of Telecom Mechanics till the date of raising the dispute and the Respondent failed to fill up the vacancies inspite of availability of the Telecom mechanics without assigning any reasons. It is also stated that the basic pay of Telecom Mechanics is R.4700/- and basic pay of Group D is Rs.4000/-. The Telecom Mechanics will be trained for 8 weeks to do the duties in new technical areas but unfortunately the Respondent failed to adhere the reasons/demand of the workers' union, which resulted into raising the dispute. There was a conciliation between the union and the Respondent management, but the same was resulted into failure due to the divergent opinion of both the parties. The Petitioner union filed writ petition bearing No. 13223 of 2007, which resulted into reference of the above dispute to this Tribunal for adjudication. It is also stated that there are specific directions from the Telecom Department that the Telecom Mechanics should be utilized in new technology area without engaging them in their feeder cadre. These directions were passed way back in the year 1999 i.e., vide letter of CGMT-AP.HYD.Lr.No.TA-STV/6-5 dated 18/11/1999. But the management during the conciliation proceedings stated that the "the bearest number of telecom Mechanics are working in GMTD, Eluru mostly consisting of workmen employees and some employees on medical grounds and there are working basing on their request only. ----If they are ready to work in technical area, the management has no objection to post them in the technical area. No where, it is mentioned that casual mazdoors are to be engaged in Group-D duties." This shows that the Respondent by violating the Departmental order dated 18.11.1999 have posted the Telecom Mechanics in Group-D cadre. It is further stated that the Petitioner union has intimated the above vacancy position for the entire state to the Respondents stating that in West Godavari, there are 75 vacancies of TM, but unfortunately these vacancies are lying vacant inspite of availability of suitable candidates, the reasons best known to the Respondent's management. The Petitioner has also submitted to direct the Respondent management to correct the irregular posts (TMs) in Group-D duties in the office of the General Manager, Eluru, and to post them into technical area by filling of the existing vacancies in West Godavari district and also pass order and such other orders and further orders as this court deems fit and proper.

3. Respondent filed it's counter with the averments in brief as follows:

The Respondent in it's counter while denying the facts averred in the claim statement, has specifically challenged the maintainability of the dispute raised before this Tribunal stating that the Petitioner union is required to prove the same with cogent evidence. It is stated that the employees were mainly women employees and basing on their request only on medical grounds and as per their willingness they have been posted and the Department never forced any employee to work in the office. It is stated that posting and transfers are taken place as per the policy/guidelines and not basing on the union affiliations. The engagement of casual labourers in the Department is prohibited and there is shortage of staff in every cadre in the Telecom Department and they have engaged them as per their requirement. It is further stated that as all the mazdoors are taken to the main stream of the Department as Telecom Mechanics etc., the administration decided to post some of them in the office. All the staffs with the medical problems are being considered for posting as per the requirement, and the posting of the employees either in rural area or in the urban area is made as per the policy of the Department. The Petitioners have not approached this Tribunal fairly and have approached the court superseding the facts and making some false allegations against the Respondent without any evidence. With these averments the Respondent submitted for dismissal of the claim of the Petitioner union.

4. The Petitioner union have not adduced it's evidence. Though the Petitioner union filed the chief evidence affidavit of the witness but he failed to attend the court to face the cross examination. Only the Respondent examined one witness as MW1.

5. I have already heard both the parties in this matter.

6. The points for determination are:

I. Whether the action of the management of BSNL in engaging the Telecom Mechanics of Group 'C' cadre for doing duties of Group 'D' is legal and justified?

II. If not, to what relief the workmen are entitled for?

7. The Learned Counsel appearing for the Petitioner submitted that as per the letter of the Government of India, Ministry of Labour and Employment, New Delhi, the Telecom Mechanic cadre is a technical cadre and they should be posted in new technology area exchanges, but violating the norms of the above letters, they have been allowed to work in the feeder cadre posts, which is highly irregular. It is stated that the members of the Petitioner union and Branch Secretaries were transferred to rural area exchanges from indoor Group-D to out-door duties in new technology area exchanges on their promotion to the cadre of Telecom Mechanics. The requests of the officials to retain them in the Group-D duties, and in the same station are not considered. It is further contended that in view of the rules and regulations mentioned above some group-D officials working in G.M. Office, Eluru were retained in the same Group-D and were reinstated in the same Group-D duties, after giving promotion in Telecom Mechanics, in order to make favour to a particular batch of officials and a particular union members with personal interest of the then District Officers. It is further contended that Eight Group-D officials working in G.M. Office, Eluru and who got promotion to the cadre of Telecom Mechanic., even after completion of training to the cadre of Telecom Mechanic were posted in G.M. Office in Group-D duties. It is further contended that the case of the Petitioner union is that they have challenged the inaction of the Respondent's office in utilizing the services of Group-C employees i.e., Telecom Mechanics (TMs) in Group D services inspite of direction of the Manager and inspite of vacancy available in Group-C cadre. It is further contended that there were 75 vacancies of Telecom Mechanics till the date of raising the dispute and the Respondent failed to fill up the vacancies inspite of the availability of the Telecom mechanics without assigning any reasons. It is also stated that the basic pay of the Telecom Mechanics is R.4700/- and the basic pay of Group D is Rs. 4000/-. The Telecom Mechanics will be trained for 8 weeks to do the duties in new technical areas, but unfortunately the Respondent failed to adhere the reasons/demand of the workers' union which resulted into raising the dispute. The action of the Respondent management is bad in the eye of law, and also irregular and arbitrary.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent submitted that the Petitioner union is required to prove all the allegations with cogent evidence. The employees were mainly women employees and as per their request on medical grounds and as per their willingness they have been posted and the Department never forced any employee to work in the office. It is further contended that posting and transfer of the employees are taken place as per the policy guidelines, and not basing on the demand of the union. The engagement of casual labourers in the Department is prohibited and there is shortage of staff in every cadre in the Telecom Department, and they have been engaged as per the requirement of the Department. It is further contended that all the mazdoors are taken to the main stream of the Department as Telecom Mechanics, and the administration decided to post some of them in the office. All the staffs with medical problems are being considered for posting as per the requirement and the posting of the employees either in rural area or in the urban area is made as per the policy of the Department. The Petitioners have not approached this Tribunal fairly and have approached the court superseding the facts and making some false allegations against the Respondent without any cogent evidence. The Learned Counsel for the Respondent submitted to reject the claim of the Petitioner union.

9. Admittedly, the Petitioner union has not adduced any evidence in support of its claim even though sufficient opportunity had been given to the Petitioner to adduce evidence. The Petitioner was failed to avail the opportunity to prove it's case by adducing evidence. On the other hand, the Respondent management examined one of his employee, working as Sub-Divisional Engineer (Admn.) as MW1 who fully supported the plea of the Respondent. The Respondent has also relied on 17 documents which are the willingness letter of 17 employees. Those documents clearly indicate that the employees have been working in the office as per their sweet will in the Group D cadre and they have no objection to work/discharge their duties in the office of the General Manager/Technical side alone. These documents go to show that some of the employees have worked in the office of the General Manager, Telecom District, Eluru for performing Group D duties. These willingness letters go to show that the Respondent management has not compelled any of them to perform the Group D duties. Therefore, in absence of any cogent evidence it can not be stated that the Respondent management has illegally and arbitrarily engaged the Group C employees in Group D cadre. In fact the Petitioner union has failed to establish the claim made by them in their claim statement. Therefore, it can safely be stated that the action of the management of Bharat Sanchar Nigam Ltd., in engaging the Telecom Mechanics of Group 'C' cadre for doing the duty of Group 'D' is legal and justified and such action of the Respondent management needs no interference.

Thus, Point No. I is answered accordingly.

10. In view of the findings given in Point No.I, the Petitioner union is not entitled for any relief.

Thus, Point No.II is answered accordingly.

RESULT:

In the result, the action of the management of Bharat Sanchar Nigam Ltd., in engaging the Telecom Mechanics of Group 'C' Cadre for doing the duties of Group 'D' is legal and justified and the workmen are not entitled to any relief as prayed for and as such the claim of the Petitioner union is dismissed. In the circumstances stated above, there is no order as to costs.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 30th day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

| | |
|----------------------------|----------------------------|
| Witnesses examined for the | Witnesses examined for the |
| Petitioner | Respondent |
| NIL | MW1: Sri K. Vijaya Babu |

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

| | |
|---------|---|
| Ex.M1: | Willingness letter of Sri N. Srinivasa Rao |
| Ex.M2: | Willingness letter of Sri A.V. Ramulu |
| Ex.M3: | Willingness letter of Sri G. Navamani |
| Ex.M4: | Willingness letter of Sri D. Pentaiah |
| Ex.M5: | Willingness letter of Sri G. Sitaratnam |
| Ex.M6: | Willingness letter of Sri Ch. Pandu Ranga Rao |
| Ex.M7: | Willingness letter of Sri N. Vijaya Bharati |
| Ex.M8: | Willingness letter of Sri Y. LHRHR |
| Ex.M9: | Willingness letter of Sri A. Kanaka Rao |
| Ex.M10: | Willingness letter of Sri K. Nagamalleswara Rao |
| Ex.M11: | Willingness letter of Sri D.N.R. Raju |
| Ex.M12: | Willingness letter of Sri K.A. Narasamma |
| Ex.M13: | Willingness letter of Sri G. Sunbramanyam |
| Ex.M14: | Willingness letter of Sri T. Srinivasa Rao |
| Ex.M15: | Willingness letter of Sri R. Venkateswara Rao |
| Ex.M16: | Willingness letter of Sri K.V.S. Brahman |
| Ex.M17: | Willingness letter of Sri A. Mary Grace |

नई दिल्ली, 26 सितम्बर, 2018

का.आ. 1502.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, उप महाप्रबंधक, भारत इलेक्ट्रॉनिक्स लिमिटेड, आई ई नाचाराम, हैदराबाद एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 46/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-14011/09/2015-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 46/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the Deputy General Manager, Bharat Electronics Limited, I E Nacharam, Hyderabad and their workmen, which was received by the Central Government on 20.09.2018.

[F. No. L-14011/09/2015– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated the 30th day of July, 2018**INDUSTRIAL DISPUTE No. 46/2015****Between:**

The President,
Bharat Electronics Contract Workers Union,
H.No.1-7-83/1/1, C/o CITU Office,
Kamalanagar, ECIL Post,
Hyderabad -500062.

... Petitioner

AND

The Deputy General Manager,
Bharat Electronics Limited,
I.E. Nacharam,
Hyderabad – 500 062.

... Respondent

Appearances:

For the Petitioner : Party in person

For the Respondent : M/s. V. Uma Devi, N. Srinivas & A. Gopala Kishan Rao, Advocates

AWARD

This is a reference issued by the Government of India, Ministry of Labour and Employment, New Delhi *vide* order No.L- 14011/09/2015 –IR(DU) dated 27.5.2015 whereunder this Tribunal is required to adjudicate the dispute i.e.,

“Whether the action of the Management of M/s. Bharat Electronics Limited, Hyderabad in not paying skilled wages to five contract workers is legal and justified? If not, to what relief the five contract workers are entitled to?”

After receiving the above said reference, it was registered as ID No. 46/2015 in this Tribunal and notices were issued to both the parties and secured their presence.

2. The case is posted for filing of claim statement and documents by the Petitioner union. At such stage, the President of the Petitioners' Union filed an application to withdraw the present case and accordingly, the copy of the application was served to the Respondent.

3. In view of the application filed by the President of the Petitioner Union, at the consent of the Respondent, the application is accepted and the case is allowed to be withdrawn by the Petitioner Union.

The reference is answered accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, and corrected by me on this the 30th day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 26 सितम्बर, 2018

का.आ. 1503.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड-11, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 54/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/75/2016-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1503.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 54/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Blue Shield Protection Network Pvt. Ltd.-11, New Delhi & Others and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42012/75/2016- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SH. AVTAR CHAND DOGRA,

PRESIDING OFFICER-CUM-LINK OFFICER, CENTRAL GOVERNMENT

**INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT PRESS EXTENSION BUILDING,
SECTOR 18-A, CHANDIGARH-160018.**

ID NO.54/2016

Sh. Rinku Kashyap, S/o Sh. Mohinder Singh, R/o Vill-Butana,
Teh-Nilokheri, Distt.Karnal (Haryana)-132117.

...Workman

Versus

1. M/s. Blue Shield Protection Network Pvt. Ltd. L-11, Green Park Extension, New Delhi-110016.

2. M/s. Soma Isolux Pvt. Ltd. Regd. Office, Model Town,

Near Maruti Car Driving School., Ambala-Haryana-134003.

...Respondents

AWARD

1. In the present case, a reference was received from the appropriate Government vide Letter No.L-42012/75/2016-IR(DU) dated 21.09.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), for adjudication of a dispute, terms of which are as under:

“Whether the action of the management M/s. Blue Shield Protection Network Pvt. Ltd. In terminating the services of the workman Sh. Rinku Kashyap S/o Sh. Mohinder Singh, Security Guard w.e.f. 31.03.2015 is legal and justified? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.
3. On the receipt of the above reference, notice was sent to the workman as well as to the managements. The registered notice was sent on the address mentioned in the letter of reference. There is no other address of workman available to this Court. Moreover, there is a presumption that a registered letter sent to the addressee i.e. workman herein has been received by such addressee and rebuttal presumption of service of notice arises in such a case. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement has been filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.
4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim Award’. Since there is no adjudication of reference or case on merits as such, it would not preclude the workman from seeking fresh reference or filing fresh case in accordance with Law.
5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Place : Chandigarh

A. C. DOGRA, Presiding Officer

Dated : 04.09.2018

नई दिल्ली, 26 सितम्बर, 2018

का.आ. 1504.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड-11, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 44/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/65/2016-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 44/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Blue Shield Protection Network Pvt. Ltd.-11, New Delhi & Others and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42012/65/2016- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**IN THE COURT OF SH. AVTAR CHAND DOGRA, PRESIDING OFFICER-CUM-LINK OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT PRESS
EXTENSION BUILDING, SECTOR 18-A, CHANDIGARH-160018**

ID No. 44/2016

Sh. Ramesh Kumar S/o Sh. Amar Singh, R/o Vill-Manak Majra,
P.O.-Arjehri, Teh-Nilokheri, Distt.Karnal(Haryana)

.... Workman

Versus

1. M/s. Blue Shield Protection Network Pvt. Ltd. L-11, Green Park Extension, New Delhi-110016.
2. M/s. Soma Isolux Pvt. Ltd. Regd. Office, Model Town,
Near Maruti Car Driving School, Ambala-Haryana-134003

... Respondents

AWARD

1. In the present case, a reference was received from the appropriate Government *vide* Letter No. L-42012/65/2016-IR(DU) dated 20.09.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), for adjudication of a dispute, terms of which are as under:

“Whether the action of the management M/s. Blue Shield Protection Network Pvt. Ltd. in terminating the services of the workman Sh. Ramesh Kumar S/o Sh. Amar Singh, Security Guard w.e.f. 31.03.2015 is legal and justified? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.
3. On the receipt of the above reference, notice was sent to the workman as well as to the managements. The registered notice was sent on the address mentioned in the letter of reference. There is no other address of workman available to this Court. Moreover, there is a presumption that a registered letter sent to the addressee i.e. workman herein has been received by such addressee and rebuttal presumption of service of notice arises in such a case. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement has been filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.
4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim Award’. Since there is no adjudication of reference or case on merits as such, it would not preclude the workman from seeking fresh reference or filing fresh case in accordance with Law.
5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Place : Chandigarh

Dated: 04.09.2018

नई दिल्ली, 26 सितम्बर, 2018

का.आ. 1505.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड-11, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 55/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/76/2016-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1505.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 55/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Blue Shield Protection Network Pvt. Ltd.-11, New Delhi & Others and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42012/76/2016-IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**IN THE COURT OF SH. AVTAR CHAND DOGRA, PRESIDING OFFICER-CUM-LINK OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT PRESS
EXTENSION BUILDING, SECTOR 18-A, CHANDIGARH-160018**

ID No. 55/2016

Sh. Jitender, S/o Sh. Rampal, R/o Vill-Raipur Rodan,
Teh-Nilokheri, Distt. Karnal (Haryana)-132117.

... Workman

Versus

1. M/s. Blue Shield Protection Network Pvt. Ltd. L-11, Green Park Extension, New Delhi-110016.
2. M/s. Soma Isolux Pvt. Ltd. Regd. Office, Model Town,
Near Maruti Car Driving School., Ambala-Haryana-134003.

... Respondents

AWARD

1. In the present case, a reference was received from the appropriate Government vide Letter No. L-42012/76/2016-IR(DU) dated 21.09.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), for adjudication of a dispute, terms of which are as under:

“Whether the action of the management M/s. Blue Shield Protection Network Pvt. Ltd. In terminating the services of the workman Sh. Jitender S/o Sh. Ram Pal, Security Guard w.e.f. 17.12.2014 is legal and justified? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.
3. On the receipt of the above reference, notice was sent to the workman as well as to the managements. The registered notice was sent on the address mentioned in the letter of reference. There is no other address of workman available to this Court. Moreover, there is a presumption that a registered letter sent to the addressee i.e. workman herein has been received by such addressee and rebuttal presumption of service of notice arises in such a case. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement has been filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.
4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim Award’. Since there is no adjudication of reference or case on merits as such, it would not preclude the workman from seeking fresh reference or filing fresh case in accordance with Law.
5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Place : Chandigarh

Dated: 04.09.2018

नई दिल्ली, 26 सितम्बर, 2018

का.आ.1506.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड-11, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 46/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/67/2016-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 46/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Blue Shield Protection Network Pvt. Ltd.-11, New Delhi & Others and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42012/67/2016- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**IN THE COURT OF SH. AVTAR CHAND DOGRA, PRESIDING OFFICER-CUM-LINK OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT
PRESS EXTENSION BUILDING, SECTOR 18-A, CHANDIGARH-160018**

ID No.46/2016

Sh. Shamsher Singh S/o Sh. Banarsi, R/o Vill-Raipur Rodan,
P.O.-Arjeheri, Teh-Nilokheri, Distt. Karnal (Haryana).

...Workman

Versus

1. M/s. Blue Shield Protection Network Pvt. Ltd. L-11,
Green Park Extension, New Delhi-110016.
2. M/s. Soma Isolux Pvt. Ltd. Regd. Office, Model Town,
Near Maruti Car Driving School, Ambala-Haryana-134003.

... Respondents

AWARD

1. In the present case, a reference was received from the appropriate Government vide Letter No.L-42012/67/2016-IR(DU) dated 20.09.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), for adjudication of a dispute, terms of which are as under:

“Whether the action of the management M/s. Blue Shield Protection Network Pvt. Ltd. In terminating the services of the workman Sh. Shamsher Singh S/o Sh. Banarasi, Security Guard w.e.f. 31.03.2015 is legal and justified? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.
3. On the receipt of the above reference, notice was sent to the workman as well as the managements. It is clear from the report of the postal-authority that workman has refused to receive the registered letter. This clearly shows that workman is not interested in disposal of his case.
4. Since the claimant has neither put up his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/No Claim Award’.
5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer-Cum-Link Officer

Place : Chandigarh

Dated: 04.09.2018

नई दिल्ली, 26 सितम्बर, 2018

का.आ.1507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड-11, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 47/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/68/2016-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1507.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 47/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Blue Shield Protection Network Pvt. Ltd.-11, New Delhi & Others and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42012/68/2016-IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**IN THE COURT OF SH. AVTAR CHAND DOGRA, PRESIDING OFFICER-CUM-LINK OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT
PRESS EXTENSION BUILDING, SECTOR 18-A, CHANDIGARH-160018**

ID No. 47/2016

Sh. Anil Singh S/o Sh. Chander Bhan,
R/o Vill-Pujam, Teh-Nilokheri, Distt.Karnal (Haryana).

...Workman

Versus

1. M/s. Blue Shield Protection Network Pvt. Ltd. L-11,
Green Park Extension, New Delhi-110016.
2. M/s. Soma Isolux Pvt. Ltd. Regd. Office, Model Town,
Near Maruti Car Driving School, Ambala-Haryana-134003.

...Respondents

AWARD

1. In the present case, a reference was received from the appropriate Government vide Letter No.L-42012/68/2016-IR(DU) dated 20.09.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), for adjudication of a dispute, terms of which are as under:

“Whether the action of the management M/s. Blue Shield Protection Network Pvt. Ltd. In terminating the services of the workman Sh. Anil Singh S/o Sh. Chander Bhan, Security Guard w.e.f. 31.12.2014 is legal and justified? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.
3. On the receipt of the above reference, notice was sent to the workman as well as to the managements. The registered notice was sent on the address mentioned in the letter of reference. There is no other address of workman available to this Court. Moreover, there is a presumption that a registered letter sent to the addressee i.e. workman herein has been received by such addressee and rebuttable presumption of service of notice arises in such a case. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement has been filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.
4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim Award’. Since there is no adjudication of reference or case on merits as such, it would not preclude the workman from seeking fresh reference or filing fresh case in accordance with Law.
5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer-Cum-Link Officer

Place : Chandigarh

Dated: 04.09.2018

नई दिल्ली, 26 सितम्बर, 2018

का.आ.1508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड-11, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 50/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/71/2016-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O.1508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 50/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s.

Blue Shield Protection Network Pvt. Ltd.-11, New Delhi & Others and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42012/71/2016– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SH. AVTAR CHAND DOGRA, PRESIDING OFFICER-CUM-LINK OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT PRESS EXTENSION BUILDING, SECTOR 18-A, CHANDIGARH-160018

ID No. 50/2016

Sh. Suresh Kumar S/o Sh. Sumer Chand, R/o Vill-Manak Majra,
P.O.-Arjehri, Teh-Nilokheri, Distt.Karnal(Haryana)-132001.

...Workman

Versus

1. M/s. Blue Shield Protection Network Pvt. Ltd. L-11,
Green Park Extension, New Delhi-110016.
2. M/s. Soma Isolux Pvt. Ltd. Regd. Office, Model Town,
Near Maruti Car Driving School., Ambala-Haryana-134003.

...Respondents

AWARD

1. In the present case, a reference was received from the appropriate Government vide Letter No.L-42012/71/2016-IR(DU) dated 20.09.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), for adjudication of a dispute, terms of which are as under:
“Whether the action of the management M/s. Blue Shield Protection Network Pvt. Ltd. In terminating the services of the workman Sh. Suresh Kumar S/o Sh. Sumer Chand, Security Guard w.e.f. 31.03.2015 is legal and justified? If not, what relief the workman is entitled to and from which date?”
2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.
3. On the receipt of the above reference, notice was sent to the workman as well as to the managements. The registered notice was sent on the address mentioned in the letter of reference. There is no other address of workman available to this Court. Moreover, there is a presumption that a registered letter sent to the addressee i.e. workman herein has been received by such addressee and rebuttal presumption of service of notice arises in such a case. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement has been filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.
4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim Award’. Since there is no adjudication of reference or case on merits as such, it would not preclude the workman from seeking fresh reference or filing fresh case in accordance with Law.
5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer-Cum-Link Officer

Place : Chandigarh

Dated: 04.09.2018

नई दिल्ली, 26 सितम्बर, 2018

का.आ. 1509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम/एस ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड-11, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचात (संदर्भ संख्या 53/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/74/2016—आईआर (डीयू)]
राजेंद्र जोषी, उप निदेशक

New Delhi, the 26th September, 2018

S.O. 1509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 53/2016) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Blue Shield Protection Network Pvt. Ltd.-11, New Delhi & Others and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42012/74/2016- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**IN THE COURT OF SH. AVTAR CHAND DOGRA, PRESIDING OFFICER-CUM-LINK OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT
PRESS EXTENSION BUILDING, SECTOR 18-A, CHANDIGARH-160018**

ID No. 53/2016

Sh. Krishan Kumar S/o Sh. Madan Lal, R/o Vill-Raipur Rodan,
P.O.-Arjehri, Teh-Nilokheri, Distt.Karnal (Haryana)-132117.

...Workman

Versus

1. M/s. Blue Shield Protection Network Pvt. Ltd. L-11,
Green Park Extension, New Delhi-110016.
2. M/s. Soma Isolux Pvt. Ltd. Regd. Office, Model Town,
Near Maruti Car Driving School, Ambala-Haryana-134003.

...Respondents

AWARD

1. In the present case, a reference was received from the appropriate Government vide Letter No.L-42012/74/2016-IR(DU) dated 21.09.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), for adjudication of a dispute, terms of which are as under:

“Whether the action of the management M/s. Blue Shield Protection Network Pvt. Ltd. In terminating the services of the workman Sh. Krishan Kumar S/o Sh. Madan Lal, Security Guard w.e.f. 31.03.2015 is legal and justified? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.
3. On the receipt of the above reference, notice was sent to the workman as well as to the managements. The registered notice was sent on the address mentioned in the letter of reference. There is no other address of workman available to this Court. Moreover, there is a presumption that a registered letter sent to the addressee i.e. workman herein has been received by such addressee and rebuttal presumption of service of notice arises in such a case. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement has been filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.
4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim Award’. Since there is no adjudication of reference or case on merits as such, it would not preclude the workman from seeking fresh reference or filing fresh case in accordance with Law.
5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer-Cum-Link Officer

Place : Chandigarh

Dated: 04.09.2018

नई दिल्ली, 3 अक्टूबर, 2018

का.आ. 1510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान ऑर्गेनिक केमिकल्स लिमिटेड, रायगढ़ एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या 56/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.09.2018 को प्राप्त हुआ था।

[सं. एल-42011/44/2011-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 3rd October, 2018

S.O. 1510 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Reference No. CGIT (56/2011) of the Central Government Industrial Tribunal-cum-Labour Court-2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Hindustan Organic Chemicals Limited, Raigad and their workmen, which was received by the Central Government on 20.09.2018.

[No. L-42011/44/2011– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande, Presiding Officer

REFERENCE No. CGIT-2/56 of 2011

EMPLOYERS IN RELATION TO THE MANAGEMENT OF HINDUSTAN ORGANIC CHEMICALS LIMITED

The General Manager
Hindustan Organic Chemicals Limited,
Rasayani, Taluka – Panvel,
Raigad (Maharashtra) – 410 207.

AND

THEIR WORKMEN

The President,
HOCL Employees Union, Post – Rasayani,
C/o. Hindustan Organic Chemicals Limited,
Rasayani, Taluka – Panvel
Raigad (Maharashtra) – 410 207.

APPEARANCES:

| | | |
|------------------|---|---|
| FOR THE EMPLOYER | : | Mr. L. L. D'souza along with Ms. Deepika Agarwal. Representatives |
| FOR THE WORKMEN | : | Shri A. N. Dalvi. Representative |

Mumbai, dated the 16th August, 2018.

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-42011/44/2011 – IR (DU) dated 18.10.2011. The terms of reference given in the schedule are as follows :

“Whether the Union’s Charter of demands dated 29/12/2008 submitted to the management of Hindustan Organic Chemical Limited, Rasayani is legal and justified ? What privileges and other benefits are the union / workmen entitled to ?”

2. After the receipt of the reference, both the parties were served with the notices.
3. This is an application filed by the first party contending therein that the long term settlement dt. 13.10.11 was signed between the first party and 2 other unions namely Patalganga Rasaini Kamgar Sangathana and Maharashtra Kamgar Shramik Sena in terms of Memorandum of Undertaking dt. 31.8.10. This MOU was signed between first party and other 2 unions including the second party union. The said settlement dt. 13.10.11 granted increase in wages and allowances and other service conditions of the workmen in the undertaking concerned in the present reference. The said settlement also provided the benefits thereof will be extended to the employees who are not the members of signatory union. If they individually or voluntarily subscribe to the terms & conditions of the said settlement. The benefits of the settlement were accepted by 532 workmen out of 538 workmen employed in the undertaking. Out of remaining 6 workmen, 5 workmen namely Mr. Anand Dalvi, Mr. R.H. Gawand, Ms. Sulochana Mhatre, Mr. Janardhan Patil and Mr. Raju Chandrakant Raut have also accepted the benefits of the said settlement by submitting individual undertaking and they have been granted the benefits of the settlement on their executing the required undertakings. Only one workman namely Mr. D.N. Joshi, who has been dismissed on

service and who has raised the dispute is pending adjudication. Since the settlement has been accepted by all the workmen in the concerned reference the present dispute has ceased to exist. As such the reference has become infructuous.

4. The second party union has not filed any say on this application but then the fact remains that the settlement has been accepted by the concerned workman and therefore the dispute has ceased to exist. The workmen whose dispute is pending adjudication is not present and even the union is not present for raising his dispute. No one is present on behalf of the union since long. It appears therefore that in view of settlement which has been accepted by the concerned workmen, the reference has become infructuous. Hence the reference is disposed off.

ORDER

Reference is disposed off.

Date: 16.08.2018

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 3 अक्टूबर, 2018

का.आ.1511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुक्त, उत्तर दिल्ली नगर निगम, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय -1, दिल्ली के पंचाट (संदर्भ संख्या 259/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/184/2015-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 3rd October, 2018

S.O. 1511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 259/2015) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Commissioner, North Delhi Municipal Corporation, New Delhi & Others and their workmen, which was received by the Central Government on 17.09.2018.

[No. L-42012/184/2015-IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No.1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 259/2015

The General Secretary,
MCD General Mazdoor Union,
Room No.95, Barrack No.1/10,
Jam Nagar House, Shah Jahan Road,
New Delhi – 110 011

... Workman

Versus

The Commissioner,
North Delhi Municipal Corporation,
4th Floor, Civic Centre, Minto Road,
New Delhi – 110 002

... Management

AWARD

This award shall dispose of a reference received from Ministry of Labour and Employment vide Order No.L-42012/184/2015-IR(DU) dated 03.12.2015 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether Shri Dharamvir Singh S/o late Ram Charan Singh is entitled to be promoted as Garden Chaudhary under promotional quota as their juniors are promoted in the said category

with effect from 04.03.2014? If so, what directions are necessary in this respect? Whether the action of the management of North Delhi Municipal Corporation in not granting the pay scale of Rs.3050-4590 revised from time to time with all consequential benefits to Shri Dharamvir Singh S/o late Ram Charan Singh with effect from 01.03.2013 is fair, legal and justified? What relief the workmen entitled to?

2. Claim statement was filed by the claimant herein averring that Shri Dharamvir Singh was regularized on the post of mali on 01.04.1989 and has been working as acting Chaudhary with effect from 01.03.2003 and his services were transferred to Civil Lines Zone, Horticulture in July 2009 where he worked upto 01.03.2003 and was transferred SP Zone on 19.05.2009 then on 22.10.2012 to Civil Lines Zone and at present is posted at Balaswa Dairy under Civil Lines Horticulture Wing. The claimant has not been allowed to participate in the promotion to the post of Garden Chaudhary on the grounds that the claimant is not 10th pass with Agriculture as one of the subjects. As per un-notified recruitment rules, claimant is entitled to promotional post of Chaudhary and no minimum qualification is prescribed. Some acting chaudharies similarly situated were allowed grant of pay of Chaudhary from the date when they were performing their duty as Garden Chaudhary as per the direction of Hon'ble Tribunal in TA No.1317/2009 in the matter of Sultan Singh Vs. MCD and further direction of Hon'ble High Court of Delhi titled Sultan Singh & others in WP(C) No.7947/2010 and dismissed as withdrawn by Hon'ble Supreme Court of Special Leave to Appeal (C) No.20069/2011 on 09.04.2012. In another writ petition No.5453/2012 titled Sultan Singh Vs MCD Division Bench of Hon'ble High Court directed the management to comply with the writ petition. Management vide order 04.06.2013 directed for payment of duties of higher post (Garden Chaudhary). The claimant was not allowed to participate in the promotion process due to wrong interpretation of the un-notified recruitment rules, that the claimants are not 10th pass with Agriculture. Juniors to the claimant were promoted to the post of Garden Chaudhary with effect from 04.03.2014. Hence the management has not only violated the un-notified recruitment rules but also violated Article 14 & 16 of the Constitution of India. Hence the management has indulged in unfair labour practice and non-grant of promotion to the claimant is totally illegal, unfair, unjust and discriminatory. Even Hon'ble High Court in a bunch of writ petitions No.7660/2002 has held on 26.02.2004 that 50% promotional posts in which the educational qualification are not required. It is also averred in para 14 of the statement of claim that Hon'ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis who are working on the post of Chaudhary vide its judgement dated 02.05.2003. Juniors to the claimants were promoted as Chaudhary with effect from 04.03.2014 under promotion quota. Finally, it has been prayed that the claimant may be granted promotion as Garden Chaudhary with effect from 04.03.2014 and also award pay scale of Rs.3050-4590 with effect from 01.03.2003 alongwith all consequential benefits.
3. Claim was demurred by the management taking various preliminary objections, inter alia Management has demurred claim of the claimants by taking preliminary objections, inter alia, present dispute not being an industrial dispute as there is no espousal & no demand notice has been served upon the management, claim being misconceived, claim being stale etc. On merits, management has admitted the factum of regularization of the claimant as mali on 01.04.1989. As per the existing rules for the post of Garden Chaudhary, malis having eight years of regular service in the grade and possessing qualification of 10th pass with Agriculture are eligible for promotion to the next post. There is prescribed procedure for promotion to the post of Garden Chaudhary and there must be sanctioned/vacant post of Garden Chaudhary to which the workman can lay claim when he has passed trade test conducted by the department. The management has denied the remaining material facts contained in the statement of claim.
4. Based on the pleadings of the parties, this Tribunal vide order dated 05.08.2016, framed the following issues:

- (i) Whether the reference is not maintainable in view of the various preliminary objections?
 - (ii) As in terms of reference.
5. Claimant in order to prove his case against the management examined himself as WW1 and tendered in evidence his affidavit Ex.WW1/A. He also relied on documents Ex.WW1/1 and Ex.WW1/2. The claimant also examined Shri B.K. Prasad, as WW2, whose affidavit is Ex.WW2/A and he also relied on documents Ex.WW2/1 to Ex.WW2/3. Management, in order to rebut the case of the claimant examined Shri Brijbir Singh, Assistant Director(Horticulture) as MW1, who tendered in evidence his affidavit Ex.MW1/A and also relied on documents Ex.MW1/1 to Ex.MW1/3.
 6. I have heard Shri B.K. Prasad, A/R for the claimant and Shri Nitin Soam, A/R for the management.

Findings on Issue No.(i) and (ii)

7. Both these issues are being taken up together for the purpose of discussion as they are inter-related and can be conveniently disposed of. Admittedly, in the present case, reference has been made under Section 10 sub Section (2-A) of the Act for adjudication. It is now well settled position in law that when a reference has been made for adjudication to the Tribunal or Labour Court, as the case may be, it is paramount duty of the court to decide the same on merits, irrespective of the pleas taken by the management. The dispute in the case in hand cannot be said to be stale for the simple reason that there is no previous adjudication of the matter between the parties from a competent court nor that there is inordinate delay in approaching this Tribunal by the claimants.
8. It is clear from the preliminary objections taken in the written statement by the management that the management has raised objection that no demand notice has been served upon the management nor the MCD General Mazdoor Union has any locus standi to raise the present dispute as the union is not a recognized union of the management. To my mind, there is no requirement of law that a dispute can be raised only by a recognized union. In this regard, it is appropriate to refer to the judgement of the Hon'ble Apex Court in the case of State of Bihar Vs. Kripa Shankar Jaiswal (AIR 1961 (2) SC Report 1) wherein also objection was taken on behalf of the management that the union was not a registered under the Trade Union Act on the date of the settlement and said plea was rejected by observing as under:

‘Held, that for a dispute to constitute an industrial dispute it is not a requisite condition that it should be sponsored by a recognized union or that all the workmen of an industrial establishment should be parties to it. A settlement arrived at in course of conciliation proceedings falls within Section 18(3)(a) and (d) of the Industrial Disputes Act and as such binds all the workmen though an unregistered union or only some of workmen may have raised the dispute. The absence of notice under Section 11(2) by the Conciliation Officer does not affect the jurisdiction of the conciliation officer and its only purpose is to apprise the establishment that the person who is coming is the conciliation officer and not a stranger. Any contravention of Section 12(6) in not submitting the report within 14 days may be a breach of duty on the part of the conciliation officer ; it does not affect the legality of the proceedings which terminated as provided in Section 20(2) of the Act.

9. There is also ample evidence on record that the workman herein was performing duty as officiating Chaudhary. It is clear from perusal of list Ex.WW1/1 that that name of the claimant finds mention in the list at No.3 and in the list Ex.WW1/2 issued by the management, name of the claimant appears. There are also averments in the claim statement that one Shri Jai Chand has also been granted pay scale of Chaudhary by the management of MCD and Sultan Singh and others vs. MCD, who were doing work of acting Chaudhary , vide judgement of the

Hon'ble High Court, i.e. in the case of MCD vs. Sultan Singh & others and necessary orders for implementation of the said judgement were issued by MCD.

10. Equally merit-less is the plea taken by the management that the present dispute is not sponsored or espoused by substantial number of workmen. It is fairly settled position in law that even non-espousal of a case by the union would not deprive the workman of the relief to which the workman is otherwise entitled under the law. Such view appears to have been taken in the case of Nazrul Hassan Siddiqui vs. Presiding Officer, Industrial cum Labour Court Bombay (1997) Lab.I.C. 1807. In the above cited case also contention was raised by the management that the dispute does not fall within the definition of 'industrial dispute' and the same has not been referred or supported by substantial section of workmen. High Court rejected the plea of the management by placing reliance upon the decision of the Hon'ble Supreme Court in the case of Associated Cement Companies Ltd. (AIR 1960 SC 777), which it was observed as under:

'We have already noticed that an industrial dispute can be raised by a group of workmen or by a union even though neither of them represent the majority of the workmen concerned; in other words, the majority rule on which the appellant's construction of Section 19(6) is based is inapplicable in the matter of the reference under Section 10 of the Act. Even a minority group of workmen can make a demand and thereby raise an industrial dispute which in a proper case would be referred or adjudication under Section 20.'

11. In view of the ratio of the judgement discussed above, it is clear that espousal of a dispute by majority members of the union is not sine qua non for adjudication of such dispute in terms of Section 10 of the Act.
12. It was strongly contended on behalf of the claimant that juniors to the claimant were allowed to participate in the promotional quota on regular basis but he was denied on the grounds that he was not possessing the requisite qualification of 10th Agriculture.
13. The main attack of the management is that the claimant herein was not having requisite qualification, as such, there is no question of grant of pay scale of Garden Chaudhary to Shri Dharamvir Singh with effect from 01.03.2013. There is no merit in the stand taken by the management in its reply, that the claimant herein is not entitled for promotion to the post of Chaudhary inasmuch as he does not possess the requisite qualification. To my mind, this plea is devoid of any merit inasmuch as similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of MCD vs. Sultan Singh as well as MCD vs. Mahipal(WP 5550 of 2010). Operating portion of the judgement in Sultan Singh (supra) of the Hon'ble Division Bench is as under:

"28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un-sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost.”

14. It is further clear that SLP was also filed by MCD before the Hon’ble Apex Court vide IA No.2 WP for special leave S20069/2011 MCD vs. Sultan Singh and others which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon’ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, a such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary. Therefore, stand taken by the management that the claimant herein does not possess requisite qualification is without any merit and has no relevance so far as question of grant of promotion to the post of Garden Chaudhary is concerned.
15. It is not out of place to mention here that even if the claimant herein was not a party in Sultan Singh case referred above, judgement of the Hon’ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon’ble High Court, which have become final. There is no question of even plea of delay and laches when management had not led any evidence to prove the same. The Hon’ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post, on adhoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon’ble Apex Court while dealing with a similar situation regarding of grant of similar benefits to an employee who was not a party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

“The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma & Ors. v. Union of India (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

16. As a sequel to my above discussion, it is held that Shri Dharamvir Singh, the claimant herein, is entitled to the pay scale of Garden Chaudhary with effect from 01.03.2003 and as a corollary, management is liable pay the difference of wages of mali vis-a-vis Garden Chaudhary from the date when the workman herein was performing duties and functions of Garden Chaudhary. Further the claimant is also entitled to be promoted to the post of Garden Chaudhary from 04.03.2014, i.e the date when his juniors were promoted as regular Garden Chaudhary. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated : September 13, 2018

नई दिल्ली, 3 अक्टूबर, 2018

का.आ. 1512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कृषि और सहकारिता विभाग, भारत सरकार, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट

(संदर्भ संख्या 03/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.09.2018 को प्राप्त हुआ था।

[सं. एल-42012/121/2016-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 3rd October, 2018

S.O. 1512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 03/2017) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the industrial dispute between the employers in relation to the Department of Agriculture & Co-operation, Government of India, New Delhi & Others and their workmen, which was received by the Central Government on 06.09.2018.

[No. L-42012/121/2016-IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM**

Present: Shri Mrinmoy Kumar Bhattacharjee, M.A., LL.B.,
Presiding Officer, CGIT-cum-Labour Court, Guwahati.

Ref. Case No.03 of 2017

In the matter of an Industrial Dispute between :-

Sh. Mriganka Kotoky, Executive Assistant. PPV & FR Authority,
Jorhat, Assam.

...Claimant/Workmen

Vrs

Department of Agriculture & Co-Operation, Govt. of India,
New Delhi & 02 Ors.

....O.P/Management.

APPEARANCES

For the workman. : Mr. M. Kotoky, Workman himself

For the Management : Dr.A. K.Singh, Management representative

Date of Award: 29.8.2018

AWARD

1. This Industrial Dispute between workman Mriganka Kotoky and the Management of Deptt of Agriculture and Co-Operation, Govt. of India, New Delhi & two others was referred to this Tribunal by the Central Government vide Notification dated 09/05/2017 with the following schedule :

SCHEDULE

“Whether the salary of Sh. Mriganka Kotoky, Executive Asstt., however was given through the contractor M/S. Dignus Services of Delhi, Now upon this unexpected termination without notice. What relief should be given, if not, the reason thereof ?”

2. On receipt of the reference, notices were sent to the workman as well as the management. They appeared and submitted their written statements.
3. The workman Mriganka Kotoky, stated that having seen an advertisement for appointment of Executive Assistant in the notice Board of department of Plan Breeding and Genetics, Assam Agricultural University, Jorhat he applied for the post and was telephonically interviewed. Ultimately he received an appointment letter issued by FA & In-charge Administration, PPV & FRA, New Delhi as Executive Assistant vide office order dated 8.4.2011 on contractual basis for one year with a provision for further extension. Copy of the aforesaid appointment letter was submitted as Annexure—A. He was working in Guwahati campus of the Assam Agricultural University in PPV & FRA to the satisfaction of all concerned. He also stated that having seen his good performance his job was extended for further period of six months which was verbally intimated to him by the authority. The petitioner further stated that after few months of his appointment, when he updated his Bank passbook he noticed that his salary was being paid by M/s Dignus Services Pvt. Ltd from after about a few months of his appointment. Having learnt the same he immediately wanted to know the reason behind this to the then Deputy Registrar of PPV & FRA, Guwahati Branch but the Deputy Registrar failed to give him any satisfactory reply. The petitioner then wanted to know the reason over Telephone from In-charge Administration and he was informed that it was only an official formality and the outsourcing Agency is paying his salary. Thereafter on 5th November, 2015 the petitioner was asked not to come to the office from the next day and on that day a letter was issued. Copy of which has been annexed as Annexure-E. The petitioner further stated that the salary for the 6 days i.e. from 31st October, 2015 to 5th November, 2015 was not given to him by the Office. He further stated that the then Dy. Registrar of PPV & FRA, Guwahati Branch compelled him to work in his house. The petitioner’s precise case was that in the advertisement which was hung in the notice Board there was no mention of Dignus services Pvt. Ltd. and his contractual appointment was given by the Office and therefore there was no way that an outsourcing Agency can be made to pay his salary. Petitioner’s further claim was that he was working under the In-Charge Administration, PPV & FRA, New Delhi and as per his knowledge M/S Dignus Services Pvt. Ltd. was appointed as human resource agency from 2012. According to the petitioner he had never been engaged by M/s Dignus Services Pvt. Ltd.
4. On receipt of the copy of the claim petition management raised an objection that PPV & FRA is a statutory autonomous body established by an Act of Parliament and hence it was not an Industry and therefore the present

reference under Industrial Dispute Act is not maintainable. It was further stated that there was no contract between PPV & FRA and the claimant Mriganka Kotoky and he was engaged through Service provider namely M/s Dignus Services Pvt. Ltd. and the contract between PPV & FRA and M/s Dignus Services Pvt. Ltd. expired on 30.10.2015. According to the management the workman Mriganka Kotoky was initially appointed on contractual basis for a period of one year vide order dated 08.04.2011 and his date of joining was 20.04.2011. Thereafter vide Office letter dated 27.04.2012 Mriganka Kotoky was engaged as Executive Assistant through outsourcing agency named M/S Dignus Services Pvt. Ltd. It was further stated that the contract of PPV & FRA with the outsourcing agency named M/S Dignus Services Pvt. Ltd. expired on 30.10.2015. Accordingly the service of the workman also came to an end. It was further stated that at no point of time the workman was appointed against any regular post.

5. On receipt of the copy of the W.S. submitted by the management workman Sri Mriganka Kotoky submitted an additional reply stating that the present industrial dispute is maintainable and the claim of the management that he was all along engaged by M/s Dignus Services Pvt. Ltd. was untrue in as much as his salary for first few months were paid by PPV & FRA, New Delhi directly through cheque. There was however no dispute about the fact that later on the appointment was shown through outsourcing Agency named M/s Dignus Services Pvt. Ltd. which continued to pay the wages, etc. to the workman till his disengagement.
6. Workman side examined two witnesses i.e. the workman himself Sri Mriganka Kotoky as W.W.1 & Sri Amit Dixit as W.W.2 on 14.12.2017. However, W.W No.2 was not produced for cross-examination, so his evidence could not be considered. Management side examined only one witness namely Dr. Ajay Kumar Singh as M.W.1. The workman Sri Mriganka Kotoky in his examination-in-chief stated about his appointment in PPV & FRA through Telephonic interview on contractual basis initially for a period of one year with a provision for further extension based on his performance vide order dated 08.04.2011. He exhibited the order of his appointment on contractual basis for one year as Ext-1 and his joining report dated 20.04.2011 as Exhibit-2. Copy of his bank account statement was exhibited as Exhibit-3. He also exhibited a letter dated 27.4.2012 written by PPV & FRA, New Delhi to the Deputy Registrar of PPV & FRA, Branch Office, Guwahati stating that his term of engagement through outsource was extended up to 31.10.2012 or until further orders as Ext-4. In this way he had been serving in the department for about four and half years and on 30.10.2015, the then Dy. Register of PPV & FRA called him to his chamber and informed that the period of M/s Dignus Services Pvt. Ltd. was over and he was asked not to sign the daily attendance register. The petitioner further stated that on 05.11.2015 the said Dy. Register asked the petitioner not to come to office from the next day. He also stated that he did not receive salary for the period from 31.10.2015 to 5.11.2015. The petitioner stated that he was appointed directly by PPV & FRA on contractual basis and not by any service provider as has been sought to be projected by the management. During cross-examination he stated that he used to maintain attendance of daily wage workers, despatch books, other cash related matters and marketing division and verification of bills submitted by the suppliers. He also admitted that his initial appointment on contractual basis for a period of one year and as per the original letter, his appointment was up to 19.4.2012. He further admitted that after completion of one year he was verbally told by the Dy. Registrar PPV & FRA to continue and while he requested for written extension of contract he was asked whether he was willing to work or not. He also admitted that without any formal extension he continued till 31.10.2015 and he further stated during cross-examination that he was allowed to work up to 5.11.2015. He also denied the suggestion that after completion of one year he was re-engaged through outsourcing Agency named M/s Dignus Services Pvt. Ltd.
7. Management witness Dr. A.K.Singh, who was working as Plant Variety Examiner in Guwahati office. He also stated that the workman was offered the assignment of Executive Assistant on contractual basis for one year. He also exhibited the same document which was earlier exhibited by the workman. A communication regarding continuation of the engagement of contractual appointment was through outsourcing Agency namely M/s Dignus Services Pvt. Ltd. He further exhibited a copy of a letter addressed to workman Sri Mriganka Kotoky by the Dy. Registrar, PPV & FRA as Exhibit-E (Annexure-E) wherein it was informed that outsourcing Agency M/S Dignus Services Pvt. Ltd. had been discontinued due to completion of work contract. According to the management witness at no point of time Mriganka Kotoky was directly employed by his Office and hence, he cannot have any claim. During cross-examination he admitted that his knowledge about the service record of the workman was based on record and information which was provided by the Head Office and he was given all the information because he was asked by the Department to represent the management before this Tribunal. He further admitted that the Organization made an advertisement for filling up certain contractual vacancies and as per his information the workman was recruited through the above process and through interview. He also admitted that the appointment letter given to the workman at the first instance was on contractual basis for one year and was issued by the In-Charge PPV & FRA. He further admitted that though the workman was appointed on 8.4.2011 on contractual basis but before completion of the contract period the service of the workman was changed as given through service provider. The witness however added the salary of the workman was enhanced. The witness however, confirmed that as a result of the engagement of the workman through service provider there was no change in his service condition. He also agreed that while the contract was extended it was not formally communicated to the workman. The witness also admitted that among the documents submitted by the management there was no such document which was a communication with M/s Dignus Services Pvt. Ltd. and the concerned workman. The witness further denied the suggestion that as M/s Dignus Services Pvt. Ltd. was a bogus Agency constituted by some of the employees of the management.

8. During argument the workman submitted that as he was directly appointed by the Office he could not have been treated as outsourced employee. According to him he had a legitimate expectation of being appointed regularly. The management side submitted that the reference itself is not maintainable as PPV & FRA is not an industry and came into existence through a statute by the Parliament. He further submitted that engagement of the workman was through outsource agency and when the project was completed, the contract with the outsourcing agency was terminated and as a result the workman was disengaged from his service. The management also submitted a written argument summarizing the oral submissions.
9. On consideration of the materials on record and submissions made by the parties it was clear that originally the workman was appointed by the concerned authority on contractual basis but when his engagement was extended it was said that it was being made through outsourcing agency. It was also clear that the workman was never appointed on regular basis. The management claimed that he was appointed through service provider. But this plea of the management clearly appeared to be non sustainable. Both Ext-1 & 4 (communications/letters regarding engagement of the workman) were issued by the management and not by any service provider. The management appointed the workman on contractual basis initially for one year with a provision for further extension. In this way the contractual engagement of the workman continued till 5.11.2015. The facts clearly indicated that the original contract for one year got extended, by the conduct of the parties, till 5.11.2015. The plea of the management that he was engaged through outsourcing agency clearly appeared to be a paper arrangement and thus the workman has to be treated as direct contractual employee under the concerned authority till his disengagement. The management did not prove any document to show that the outsourcing agency was engaged by them for supplying man power. All correspondences regarding employment of the workman appeared to have been issued by the management. The workman therefore is deemed to have been in engagement through deemed extension of original contract till his disengagement. However, in view of Ext-4, which was relied upon and proved by the workman, the management reserved the right to discontinue the services of the workman on contract any time after 31.10.2012. The management however, allowed the workman to continue up to 5.11.2015 though his salary was disbursed only up to 30.10.2015. He is, therefore, clearly entitled to receive his salary and allowances, as admissible, up to 5.11.2015, that is, for further six days. The workman's expectation for continuous service however, did not appear to be on any sound proposition of law. He was, according to his own statement, engaged on contractual basis and was allowed to continue after the expiry of the original contract and was discontinued at a later date. There was nothing on record to show that he was engaged against any existing regular vacancy. On consideration of the evidence/materials on record it appeared that he worked up to 5.11.2015 as allowed by the management meaning thereby that by conduct of both the parties the contract existed up to 5.11.2015.
10. In regard to plea of the management that the reference was not maintainable because the concerned authority is not an industry is not acceptable in as much as it was not involved in any such activity which could be performed only by a sovereign state.
11. In view of the above, it is held that no legal right had accrued to the workman for regular appointment since he was engaged purely on contract basis. He is however, entitled to receive his salary and allowances, as admissible, from 31.10.2015 to 5.11.2015 from the authority of Protection of Plant Varieties and Farmers' Rights Authority, Ministry of Agriculture, Govt. of India. The concerned authority is, therefore, directed to pay the salary and allowances from 31.10.2015 to 5.11.2015 to the workman, as per admissible rate, within a period of 60 days from the date of the receipt of this award. The authority shall also pay simple interest @ 8% to the workman on the unpaid amount with effect from 6.11.2015 till the actual payment is made. It is further directed that, if the concerned authority initiates any process for filling up any vacancy for which the workman is academically eligible, he shall be allowed by the concerned authority to participate in such recruitment process if he submits his application. If, by this time, the workman becomes over-age, the concerned authority shall condone his age.
12. The reference, accordingly, stands disposed of with an award as indicated above.

Given under the hand and seal of this Tribunal on this day of 29th of August, 2018.

MRINMOY KUMAR BHATTACHARJEE, Presiding Officer

नई दिल्ली, 3 अक्टूबर, 2018

का.आ. 1513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुक्त, उत्तर दिल्ली नगर निगम, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ संख्या 225/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.09.2018 को प्राप्त हुआ था।

[सं. एल-42011 / 126 / 2015—आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 3rd October, 2018

S.O. 1513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 225/2015) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Commissioner, North Delhi Municipal Corporation, New Delhi & Others and their workmen, which was received by the Central Government on 17.09.2018.

[No. L-42011/126/2015–IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM -LABOUR COURT No.1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 225/2015

Shri Krishan Pal S/o late Shri Bhule Ram, represented by
President, MCD General Mazdoor Union,
Room No.95, Barrack No.1/10,
Jam Nagar House, Shah Jehan Road,
New Delhi

... Workman

Versus

1. The Commissioner,
North Delhi Municipal Corporation,
4th Floor, Civic Centre, Minto Road,
New Delhi 110 002
2. The Commissioner,
East Delhi Municipal Corporation,
Udyog Sadan, Plot No.419,
Patparganj Industrial Area,
Shahdara, Delhi

... Management

AWARD

Reference under Section 10 sub section (2A) of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment vide its orders No.L-42011/126/2015-IR(DU) dated 27.10.2015 for adjudication of an industrial dispute with the following terms:

‘Whether the action of the management of Municipal Corporation of Delhi by not granting promotion of Garden Chaudhary in the pay scale of Rs.950-1500 revised from time to time with effect from 08.08.1994 to the workman Shri Krishan Pal, S/o Shri Bhule Ram is fair and legal? If not, to what relief the workman is entitled to and from which date?’

2. In the reference order, North Delhi Municipal Corporation was impleaded as party. However, an application was moved by the workman for impleading East Delhi Municipal Corporation as a party as the workman is stated to be in the employment of East Delhi Municipal Corporation. As such, East Delhi Municipal Corporation impleaded as a party in this case.
3. Both the parties were put to notice and the workman Shri Krishan Pal, filed his statement of claim, wherein it is alleged that he has been allotted work of Chaudhary with effect from 08.08.1994 by the competent officers of Horticulture Department and is presently posted under Shahdara South Zone to work under the Deputy Director of Horticulture. However, he has been denied pay scale of Chaudhary, revised from time to time. Management has fixed different pay scales to their employees, including that of mali, Chaudhary etc. in accordance with their job and non-grant of pay scale to the workman herein amounts to forced labour and unfair labour practice.
4. The workman has got payment of salary in the lower pay scale of mali revised from time to time and has been denied the scale of Chaudhary, in the pay scale of Rs.950-1500 for his performing the duty of Chaudhary with effect from 08.08.1994. Duties of mali is presently of an unskilled workman whereas duties of Chaudhary is skilled in nature belonging to Group C category of employees.
5. It is also averred in para 8 of the statement of claim that Hon’ble High Court, Delhi, in the matter of Jai Chand vs Municipal Corporation of Delhi (CW 6514/2001) has disapproved the non-payment of wages for those malis who are working on the post of Chaudhary vide its judgement dated 02.05.2003. After the above judgement of the Hon’ble Court, Municipal Corporation of Delhi (Horticulture Department) has also issued order

No.ADC(Hor.)/AO(Hort)/DA-VII/05/457 dated 04.03.2005. There is also reference to the judgment of Division Bench of High Court of Delhi in the matter of Municipal Corporation of Delhi vs. Sultan Singh wherein also plea of the MCD regarding non-payment of wages of Chaudhary to malis who are doing working of Chaudhary, was turned down by the Hon'ble High Court in judgement dated 27.07.2011.

6. It is also averred that similarly situated workmen who were performing duty of Chaudhary were granted pay scale of Chaudhary from the date when they were asked to perform duty on the higher post and management has challenged the order dated 27.07.2011 of the Labour Court in the matter of MCD vs Sultan Singh as well as before the Hon'ble Supreme Court of India by Special Leave to Appeal No.S20069/2011 and the plea by MCD has been dismissed by both, before the High Court as well as the Hon'ble Supreme Court. Workman, herein, is also similarly situated and doing work of Chaudhary and as such, entitled to same benefits. Finally, it is prayed that an award may be passed in his favour.
7. Management has demurred claim of the workman by taking preliminary objections, inter alia, present dispute being against the rules, regulations & policy, non service of notice prior to raising the dispute, there being no cause of action, etc.. There is prescribed procedure for promotion to the post of Garden Chaudhary and there must be sanctioned/vacant post of Garden Chaudhary to which the workman can lay claim when he has passed trade test conducted by the department. Workman has not passed the said trade test nor is he performing duties of Garden Chaudhary. Management, on merits, has denied material averments. It is also denied that the workman herein was performing duties of Chaudhary with effect from 08.08.1984. Accordingly, it is prayed that claim of the workman herein is liable to be dismissed, being devoid of merits.
8. Against this factual background, based on pleadings of the parties, this Tribunal vide order dated 19.01.2017 framed the following issues:
 - (i) Whether claim petition is not legally maintainable in view of the various preliminary objections?
 - (ii) In terms of reference
9. Workman, in support of his case, examined himself as WW1 and Shri B.K. Prasad as WW2 and tendered in evidence their affidavit Ex.WW1/A & Ex.WW2/A and also tendered in evidence documents Ex.WW1/1 and Ex.WW2/1 to Ex.WW2/4 respectively. Management, in order to rebut the case of the workman, examined Shri Ravinder Kumar, Assistant Director (Horticulture) as MW1, whose affidavit is Ex.MW1/A.
10. I have heard Shri B.K. Prasad, A/R for the workman and Shri Vikas Sharma, A/R for the management.

Findings on Issue No.(i)

11. It is clear from the preliminary objections taken in the written statement by the management that the management has raised objection that no demand notice has been served upon the management nor the MCD General Mazdoor Union has any locus standi to raise the present dispute as the union is not a recognized union of the management. To my mind, there is no requirement of law that a dispute can be raised only by a recognized union. In this regard, it is appropriate to refer to the judgement of the Hon'ble Apex Court in the case of State of Bihar Vs. Kripa Shankar Jaiswal (AIR 1961 (2) SC Report 1) wherein also objection was taken on behalf of the management that the union was not a registered under the Trade Union Act on the date of the settlement and said plea was rejected by observing as under:

'Held, that for a dispute to constitute an industrial dispute it is not a requisite condition that it should be sponsored by a recognized union or that all the workmen of an industrial establishment should be parties to it. A settlement arrived at in course of conciliation proceedings falls within Section 18(3)(a) and (d) of the Industrial Disputes Act and as such binds all the workmen though an unregistered union or only some of workmen may have raised the dispute. The absence of notice under Section 11(2) by the Conciliation Officer does not affect the jurisdiction of the conciliation officer and its only purpose is to apprise the establishment that the person who is coming is the conciliation officer and not a stranger. Any contravention of Section 12(6) in not submitting the report within 14 days may be a breach of duty on the part of the conciliation officer ; it does not affect the legality of the proceedings which terminated as provided in Section 20(2) of the Act.

12. Consequently, this issue is decided in favour of the workman and against the management.

Findings on Issue No.(ii)

13. Now, the main issue which requires determination in the case in hand is whether the workman herein is entitled for grant of pay scale of 950-1500 as revised from time to time alongwith consequential benefits. It is clear from pleadings of the parties that initially the workman herein was appointed as mali on daily wage basis and later on he was regularized on the same post of mali. This fact has not been refuted even by the management.
14. There is also ample evidence on record that the workman herein was performing duty as officiating Chaudhary. It is clear from perusal of office order dated 25.11.2002 Ex.WW1/1 that that name of the workman finds mention at serial No.4. Workman, in order to prove his case, has tendered in evidence his affidavit Ex.WW1/A, wherein material averments contained in statement of claim has been reiterated. It is specifically alleged in the affidavit

that he was doing work of acting Chaudhary with effect from 08.08.1994. There are also averments in his affidavit that one Shri Jai Chand has also been granted pay scale of Chaudhary by the management of MCD and Sultan Singh and others vs. MCD, who were doing work of acting Chaudhary, vide judgement of the Hon'ble High Court, i.e. in the case of MCD vs. Sultan Singh & others and necessary orders for implementation of the said judgement were issued by MCD.

15. There is no merit in the stand taken by the management in its reply that the workman herein is not entitled for promotion to the post of Chaudhary inasmuch as he has not appeared in the trade test conducted by the department. To my mind, this plea is devoid of any merit inasmuch as similarly situated other workers who were performing duties of Chaudhary, i.e. acting Chaudhary have been granted pay scale of Garden Chaudhary after judgement dated 27.07.2011 rendered by the Hon'ble High Court in the case of MCD vs. Sultan Singh as well as MCD vs. Mahipal(WP 5550 of 2010). Operating portion of the judgement in Sultan Singh (supra) of the Hon'ble Division Bench is as under:

“28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore, the learned counsel for the petitioner has failed to make out any such grounds which will impel this Court to exercise its jurisdiction under Article 226 of the Constitution to set aside the orders of the Tribunal dated 29th January, 2010 and 7th October, 2010 as no illegality or un sustainability or perversity in the orders of the Tribunal has been made out.

30. The writ petition is, therefore, dismissed. Parties are left to bear their own cost.”

16. It is further clear that SLP was also filed by MCD before the Hon'ble Apex Court by special leave application No. S20069/2011 MCD vs. Sultan Singh and others which was also dismissed as withdrawn vide order dated 09.04.2012. It is further clear that the Hon'ble High Court in Sultan Singh case strongly deprecated the stand taken by the management that the workmen were not possessing requisite qualification or have not qualified the test etc. It was clarified that since the workmen were discharging duties to the post of Garden Chaudhary, as such, workmen were entitled for the salary of Garden Chaudhary and competent authority need not look into anything else except the fact that the workman had worked as Garden Chaudhary. Therefore, stand taken by the management that the workman herein could not qualify the test conducted by the department is without any merit and has no relevance so far as question of grant of salary against the post of Garden Chaudhary is concerned.
17. It is not out of place to mention here that even if the workman herein was not a party in Sultan Singh case referred above, judgement of the Hon'ble High Court is binding on the management and management is required to implement the same in letter and spirit and the same is judgement in rem, and all similarly situated workmen are required to be accorded the benefit of the said judgement of the Hon'ble High Court, which have become final. There is no question of even plea of delay and laches when management had not led any evidence to prove the same. The Hon'ble High Court has decided an abstract proposition of law, i.e. a mali who is performing duty as officiating/acting Chaudhary is entitled to the salary/wages of Chaudhary. Law is fairly settled that if a person is working on a higher post, on ad-hoc or temporary basis, even such workman is entitled to salary/wages of higher post, unless rules or regulations specifically provides otherwise. I find support to this view from Secretary vs. Lieutenant Governor Port Blair (1998 Lab.I.C. 598), yet in another case, Hon'ble Apex Court while considering that question of grant of benefits to similarly situated employees who were not party to the writ petition or lis in the case of State of Uttar Pradesh vs. Arvind Kumar Srivastava (2015) 1 SCC 347 observed as under:

“The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. The legal principles that can be culled from the judgments, cited both by the appellants as well as the respondents, can be summed up as under:

- (1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

- (2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.
- (3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularization and the like (see K.C. Sharma & Ors. v. Union of India (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

18. In view of the ratio of law discussed hereinabove, it is held that the workman herein, Shri Krishan Pal is entitled to the pay scale of Garden Chaudhary with effect from 08.08.1994 and as a corollary, management is liable to grant promotion of Garden Chaudhary in the pay scale of Rs.950-1500 revised from time to time from the date when the workman herein was performing duties and functions of Garden Chaudhary. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated : September 13, 2018

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ईस्टर्न कोलफील्ड लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 04/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.09.2018 को प्राप्त हुआ था।

[सं. एल-22012/174/2013—आईआर (सी.एम.-2)]

राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1514 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. E. C. L., and their workmen, which was received by the Central Government on 26.09.2018.

[No. L-22012/174/2013— IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE No. 04 OF 2014

PARTIES : The management of Sodepur Colliery of M/s. E.C.L.

V/s

Shri Charu Chandra Rajwar

REPRESENTATIVES :

For the Management : Shri P. K. Das, Learned Advocate

For the Union (Workman) : Shri D. P. Banerjee, Learned Advocate

INDUSTRY — COAL : STATE : WEST BENGAL

Dated : 12.09.2018

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/174/2013–IR (CM-II) dated 28.01.2014 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether non regularization of the workman Shri Charu Chandra Rajwar to the post of Looseman w.e.f. 19.09.1991 by the management of Sodepur Colliery is justified? If not, to what relief the workman concerned is entitled to?”

1. Having received the Order No. L-22012/174/2013–IR (CM-II) dated 28.01.2014 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 04 of 2014 was registered on 20.02.2014. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.
2. Case called out. Shri P. K. Das, learned advocate appeared on behalf of the management of Sodepur Colliery of M/s. Eastern Coalfields Limited but none appeared on behalf of the workman Shri Charu Chandra Rajwar.
3. On perusal of the case record I find that the workman’s advocate Shri D. P. Banerjee is not attending the court after 08.09.2015. There after 14 dates have been fixed but neither the workman nor his advocate appeared before the Tribunal. It seems that the workman has lost his interest to proceed with the case further. As such the case is closed and accordingly a ‘No Dispute Award’ is hereby passed.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 08/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.09.2018 को प्राप्त हुआ था।

[सं. एल-22012 / 28 / 2007-आईआर (सी.एम.-2)]

राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1515 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID. No. 08/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of M/s. W.C.L., and their workmen, which was received by the Central Government on 26.09.2018.

[No. L-22012/28/2007– IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/08/2008

Date: 07.08.2018

PARTY NO. 1 : The Sub Area Manager,
Saoner Sub Area,
Western Coalfields Ltd.
P O –Saoner, Nagpur-441107

Versus

Party No.2 : The President,
Rashtriya Koyla Khadan Mazdoor Sangh,(INTUC)
Br. Patansawangi coal mine, Western Coalfields Ltd.
Tah. Saoner, Nagpur.

AWARD(Dated: 7th August, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Saoner Sub Area of WCL and their workman, Shri Raghunandan Naina Pal, for adjudication, as per letter No. L-22012/28/2007-IR (CM-II) dated 11.03.2008, with the following schedule:—

“Whether the action of the management of WCL in not protecting the wages of Shri Raghunandan Naina Pal is legal and justified? If not, to what relief the workman is entitled?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, RKKMS("the union" in short) filed the statement of claim on behalf of the workman, Shri Raghunandan Naina Pal, ("the workman" in short) and the management of Western Coalfields Ltd. ("Party No. 1" in short) filed their written statement

The case of the workman as presented in the statement of claim by the union is that the workman was appointed on 26.03.1981 as a loader category V at Patansawangi Mine and on 11.09.1990, while he was on duty in the mine, he met with an accident and sustained injury on his right hand and he was injured for ten months and he was examined by the Medical Board on 26.07.1991 and his permanent disability was assessed at 12% and the Medical Board recommended to give alternate job to the workman, however, the recommendation of the Medical Board was not communicated to the workman and he was not given alternate job as recommended by the Medical Board and the recommendation of the Medical Board was counter signed by the CMO on 29.04.1994 and the fact of such counter signature by the CMO was also not communicated to the workman and therefore, under compelling circumstances, the workman on his own made communication with the party No.1 to convert him to time rated worker and he was accommodated as a general mazdoor category I at Mine No.3 of Saoner Sub Area, as per the office order and though the workman was given time rated job, his wages of loader category- V were not protected and due to non protection of his wages of loader, there was loss of his basic wages and the workman is entitled for protection of his wages of loader. It is further pleaded by the Union on behalf of the workman that injury compensation of Rs.11,678.40 was paid to the workman only on 23.12.1998, instead of in the year 1991 itself, so, the workman is entitled for interest at the rate of 18% on the said amount from 1991 to 23.12.1998.

It is further pleaded by the union that the reduction of the wages of the workman was contrary to the National Coal Wage Agreement and to the Standing order of party No.1 and the workman is entitled for protection of his wages of category V from the date of accident i.e. 11.09.1990 and all consequential benefits.

3. In the written statement, the party No.1 has admitted about the appointment of the workman as a loader category V at Patansawangi Mine and his drawing of wages of category V and that the workman met with an accident on 11.09.1990 during the course of his employment and that he was injured for 10 months and that he was examined by the Medical Board on 26.07.1991 and was declared 12% disabled and that the Medical Board recommended to give the workman alternate job in underground duty, However, party No.1 has denied the allegation that such facts were not communicated to the workman, It is further pleaded by the party No.1 that the workman was not able to perform his duty as a loader and as such, he himself by letter dated 14.07.1995 requested the management to convert him into time rated employee and prior to that also, the union had raised the said issue and agreed for the conversion of the workman to time rated employee and in pursuance to the letter of the workman, as per office order dated 17.07.1995, the workman was accommodated in time rated job at mine No.3 of Saoner Sub Area, as mazdoor category I and the workman was not transferred, but he was provided with job of time rated employee at the place, where work was available and as such, the same cannot be termed as transfer and as per the request of the workman, he was transferred to Pipla mine and again to Patansawangi mine and the workman himself wanted accommodation in category I and he also accepted the wages of the said category and as such, he is not entitled for protection of his wages of category V and injury compensation of Rs.11,678.40 was paid to the workman and as the workman wanted accommodation in category I as time rated employee and accepted the wages of that category, it cannot be termed as any financial loss to the workman and as the conversion of the workman to time rated category was on his request, the question of payment of differential wages does not arise and there is no victimization and the workman is not entitled to any relief.

4. In the rejoinder, it is pleaded on behalf of the union that, under compelling circumstances and considering the hardship and starvation of the workman and his family members for a period of four years, the workman agreed for his conversion into time rated job and neither the union nor the workman had requested the management to alter the wages from category V to category-I and the workman was given light job as per the recommendation of the Medical Board and it was the management, who failed to offer light job as per with category V and accommodated him in category-I and party No.1 had given protection of wages to other employees in similar situation in number of cases including in the cases of Abdul Wahid Nizamuddin, Dinadas Dupai, Hazarilal and Ranju Vedu of Patansaongi Mine, who were declared medically unfit for their regular job and were given light job by changing their original category V of loader and from the said facts, it is clear that party no 1 indulged in unfair labour practice and victimized the workman.
5. After hearing both parties and giving opportunity to produce evidence, my predecessor decided this case on merit on 30.05.2014. Against of this award, union filed Writ Petition No. 180/2015 in Hon'ble High Court and Hon'ble High Court passed an order on 29.09.2015 in form of remand, in which, following directions were given by the Hon'ble High Court, "In the result, Writ Petition is partly allowed and without interfering with the ultimate order passed by the Tribunal, the Tribunal to decide the question of discrimination in the light of averments made in para 4 of the rejoinder by permitting the parties to lead additional evidence."
6. In the light of above direction, both parties were given opportunity to file additional evidence and submission.
7. **Point of determination:**
 - i. Whether Party No. 1 discriminated the present worker with other workers in wage protection.
 - ii. Whether workman of the above union is entitled to any other relief.
8. In support of his additional claim, the workman has filed additional affidavit and examined himself as a witness, besides placing reliance on documentary evidence. It is to be mentioned here that party No.1 did not adduce any additional oral evidence in support of its case. Parties also relied case laws. Firstly I want to mention case laws produced by the workman.
9. The workman relied on case laws, Kunal Singh Vs. Union of India, AIR 2003 SC 1623, Dhammadip B. Mankar Vs Union of India 2011 III CLR 976 and Pandhari J. Bandurkar Vs Union of India W.P. No. 3165 of 2012 Bombay High Court Nagpur Bench date of order 26.02.2013, in which following principles are laid down:—
 - i. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act (1995), Ss. 47, 2(t) – Applicability – Person acquiring disability during service – Entitled to be protected under S. 47 of Act – Provisions of S. 47 granting protection are mandatory ----- "Once it is held that the appellant has acquired disability during his service and if found not suitable for the post he was holding, he could be shifted to some other post with same pay-scale and service benefits"
 - ii. "He is beneficiary of welfare provision in Section 47 in this situation Writ Petition deserves to be allowed".
10. The Party No. 1 relied case laws, Mario Shaw Vs Martin Fernandez AIR 1996 Bombay 116 and Keshav Vs Western Coalfields Limited with other Writ Petitions W.P. No. 476/2014 Bombay High Court Nagpur Bench date of order 21.04.2014, in which following principles are laid down by the Hon'bles:—
 - i. "Legislation i.e. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act (1995), Ss. 47 is of mandatory provisions, consent has no existence in law and the employer should not have infact called upon those petitioners to give such consent ----- Para 7 – Petitioners will be given benefit of pay protection in terms of Section 47 of the Act for a period commencing from the date, three years prior to the filing of the respective petitions".

- ii. “A man cannot both affirm and disaffirm the same transaction, show its true nature for his own relief, and insist on its apparent character to prejudice his adversary”.

With full regard and honour, I agree with the principles laid down in above laws. Now I want to mention some factual evidence in these points.

11. The workman in his additional submission, filed on 28.01.2016, mentioned in para 2 that, “Injury and the disability of the workman is out of purview of the provisions of the above 1995 Act ----- Reliance placed by the Party No. 1 on the ruling of the Hon’ble High Court is not applicable to the present case -----Provision is not applicable with respect”.
12. The workman in para no. 14 of his additional evidence also asserted that, above 1995 Act is not applicable, because he suffered injury on 11.09.1990 i.e. much prior coming into effect of the above said Act 1995.

I want to point out some facts came into my notice during the argument that, accident occurred on 11.09.1990, in which he got permanent disability of 12%. The Medical Board gave its report on 26.07.1991 and recommended for alternate job, but CMO countersigned on this report on 29.04.1994. Compensation of Rs. 11,678/- paid by the Party No. 1 on 23.12.1998. Workman gave his consent for alternate job on 14.07.1995. These show some short of Unfair Labour Practice on behalf of the Party No. 1, but this case came before me on the direction of the Hon’ble High Court on particular subject and Hon’ble High Court also confirmed the award passed by my predecessor on 30.05.2014. So, this Tribunal has no jurisdiction on this point.

13. The workman in para 13 of his additional evidence asserted that, “Management has offered me the discriminatory treatment, whereas the other persons similarly situated are being given the benefits whose names are specifically mentioned in para 4 of my rejoinder dated 04.05.2010, but in para 16 of his cross-examination, he admitted that, five persons injured in different incidents, but he did not file any document concerned with other four persons, whose names were mentioned in para 4 of his rejoinder. He also denied his consent for alternate jobs on 14.07.1995, but in his argument, para 2 of his statement of claim and rejoinder, he admitted that, he gave consent with compelling circumstances to survive his family. This fact shows that, his versions are different in pleading and proof.
14. On perusal of the record, it reveals that, about Section 47 of above 1995 Act, no pleading of the workman in his statement of claim and rejoinder. Even at the time of additional evidence, he also denied the applicability of Section 47. On behalf of this argument, workman view was that, accident occurred in 1990, but this above Act came into effect in 1995. My predecessor in paras 11 & 12 of his award dated 30.05.2014 mentioned that, some settlements taken place on 02.12.1992 between the Party No. 1 and the union, RKKMS. It was also mentioned that, there was a delay of 17 years. He also relied the judgment of Hon’ble High Court, Nagpur Bench in W.P. No. 476/2014. On the basis of this case law and above observation, he gave the benefit of protection of wages to the workman from preceding three years.
15. On going the above discussion, my humble opinion is that, workman failed to prove that, Party No. 1 discriminated with him in comparison to other workers, whose names were mentioned in para 4 of his rejoinder. I also agree with the observation of above award. It is also correct to say that, the workman cannot be allowed to approbate and reprobate. Hence, it is ordered:

ORDER

The workman is not entitled for any further relief.

S.S. GARG, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1516.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 27/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.09.2018 को प्राप्त हुआ था।

[सं. एल-22012/91/2016-आईआर (सी.एम.- II)]
राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of M/s. W.C.L., and their workmen, received by the Central Government on 26.09.2018.

[No. L-22012/91/2016- IR(CM-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/27/2016-17

Date: 08.08.2018

Party No.1 : The Sub Area Manager,
Durgapur Open Cast Mines of Chandrapur
Area of Western Coalfields Ltd, Post. Urjanagar,
Tah. & Distt. Chandrapur-442401(MS)

Versus

Party No.2 : The General Secretary
Rastriya Colliery Mazdoor Congress,
C/o. Shri C.R. Tembhre, Near Ayyappa Mandir,
Tukum Ward No.2, Distt.Chandrapur-442401 (MS).

AWARD

(Dated: 08th August, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employer, in relation to the management of The Sub Area Manager, Durgapur Open Cast Mines of Chandrapur, (in short Party No 1) and their workman, Shri Surendra Gopal Goswami through the union, The General Secretary, Rastriya Colliery Mazdoor Congress, (in short Party No.2) for adjudication, as per letter No.L-22012/91/2016-IR(CM-II) dated 10.11.2016, with the following schedule:—

“Whether the action of Management of Durgapur Open Cast Mines of Chandrapur Area, Western Coalfields Limited, in denying employment of Shri Surendra Gopal Goswami Puri the dependant son of Shri Goswami Gopal Puri, Retire Employee who has already put in more than 41 years of service, which is contrary to the provision of Para 9.4.4 of NCWA is legal and justified? If not, what relief the workman is entitled to?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement by registered post with acknowledge due, but the petitioner was not present. On behalf of Management, Smt. Pushpalata Ranjan, Adv. appeared and filed Vakalatnama but did not file any written statement. The petitioner /Union did not file statement of claim. The Union did not appear in this proceeding and did not also pray for adjournment for filing statement of claim. It shows that, workman and his Union are not interested to continue this reference. This reference is pending from 27.12.2016. So, reference is closed. Hence, it is ordered:

ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

SHYAM SUNDER GARG, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 53/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9.10.2018 को प्राप्त हुआ था।

[सं. एल-22012/277/2004—आईआर (सी.एम.— II)]
राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 9.10.2018.

[No. L-22012/277/2004—IR(CM-II)]
RAJENDER SINGH, Section Officer

ANNEXURE**Before The Central Government Industrial Tribunal-Cum-Labour Court At Hyderabad**

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 9th day of November, 2016

INDUSTRIAL DISPUTE No. 53/2005**Between:**

The General Secretary,
(Sri Bandari Satyanarayana),
Singareni Collieries Employees Council (TNTUC),
BCH 30, Vittal Nagar,
Godavarikhani – 505209.

Petitioner/Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bhupalapalli Division,
Bhupalapalli-506168.

...Respondent

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/277/2004-IR(CM-II) dated 12.7.2005 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the demand of Singareni Collieries Employees Council for reinstatement of Sri Uppari Prabhakar, Coal Filler, KTK-5 Inc., Bhupalapalli Division into the services of Singareni Collieries Company Ltd., is legal and/or justified? If so, to what relief the workman is entitled?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No. 53/2005 and issued notices to both the Petitioner union and the management. They both appeared before the court and engaged their respective counsels with the leave of the court and consent of either party.

2. **The averments made in the claim statement in brief are as follows:**

Sri Uppari Prabhakar, was appointed as badli filler on 14.3.1988 and later he was confirmed as Coal Filler on 1.4.1995. The Workman was regular to his duties till the year 1996. But during the year 1996, the Workman suffered with illness and family problems. While the matters stood thus, charge sheet dated 14.7.1997 was issued to him by the Respondent management alleging that the Workman absented for duty during the year 1996 without sufficient cause, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Workman was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Workman was dismissed from service vide order No. P.10/4202/IR/2005 dated 16.11.1998. It is stated that during the course of the enquiry the Workman has categorically stated that his inability to perform his duties regularly during the year 1996 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Workman was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Workman from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Workman has rendered several years of continuous service in the Respondent management. The Workman approached the Respondent to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Workman was constrained to approach this Tribunal through Petitioner Union to declare the impugned order No. P.10/4202/IR/2005 dated 16.11.1998 issued by the Respondent is illegal and arbitrary and to set aside the same and consequently to direct the Respondent to reinstate the Workman into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondent filed counter denying the averments made in the petition, with averments in brief as follows:**

In the counter the Respondent while admitting some of the factual aspects to be true, stated that the Petitioner Workman was appointed in the Respondent's company on 14.3.1988 as Badli Filler and he was regularised as Coal filler on 1.9.1995. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Workman has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Workman was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Workman by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Workman is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Workman from service. It is stated that in fact the Workman was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Workman is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Workman admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 27.1.2014.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

I. Whether the demand of Singareni Collieries Employees Council for reinstatement of Sri Uppari Prabhakar, Coal Filler, KTK-5 Incl., Bhupalapalli Division into the services of Singareni Collieries Company Ltd., is legal and justified?

II. If so, to what relief the Workman is entitled?

7. **Point No. I:** During the course of argument, the Learned Counsel appearing on behalf of the Workman submitted that due to illness, and family problems the Workman could not be able to attend his duty sincerely. Even in his show cause the Workman has mentioned the above facts but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Workman. When the Workman has taken a stand that due to his illness he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. But, the authority has given capital punishment to the Workman when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent submitted that when the Workman was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondent company is legal and proper. When the Workman was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and some family problems, the Workman could not be able to be regular in his duty, the Workman has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Workman were proved. For this, capital punishment was imposed. After dismissal of service, the Workman has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court and is searching ways and means to provide bread and butter to his family members. When the Workman has already realised his mistake and is coming forward to work, atleast one chance should be given to him for reinstatement into service. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondent for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Uppari Prabhakar is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point No. II:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Uppari Prabhakar is not legal and justified. After dismissal of service as stated earlier, when the Workman has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Workman has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Workman should be given a chance to maintain his livelihood and to work under the Respondent's management. But in this case, the Workman has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Workman is not entitled to get all the relief as claimed in the claim statement by the Petitioner union. But he is only entitled to be given a chance to work in the Respondent's management.

Thus, Point No. II is answered accordingly.

Result:

In the result, the reference is ordered as under:

"The demand of Singareni Collieries Employees Council for reinstatement of Sri Uppari Prabhakar, Coal Filler, KTK-5 Incl., Bhupalapalli Division into the services of Singareni Collieries Company Ltd., is not legal and justified".

It is ordered that the workman Sri Uppari Prabhakar be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 days in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 9th day of November, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Workman

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1518.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 90/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9.10.2018 को प्राप्त हुआ था।

[सं. एल-22012/106/2013-आईआर (सी.एम.- II)]

राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 9.10.2018.

[No. L-22012/106/2013-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 25th day of September, 2018

INDUSTRIAL DISPUTE No. 90/2013

Between:

The President (Bandari Satyanarayana),
Telengana Trade Union Council,
H.No.5-295, Indra Nagar, Opp. Bus Stand,
Mancherla – 504 208. Adilabad District.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri (P.O.)
Adilabad district – 504231.

... Respondent

Appearances:

For the Petitioner : M/s. S. Bhagawanath Rao & S.V.Ramadevi, Advocates

For the Respondent : M/s. Nandigam Krishna Rao & N.S. Pattabhi Rama Rao, Advocates

AWARD

This is a reference issued by the Government of India, Ministry of Labour and Employment, New Delhi vide order No.L-22012/106/2013-IR(CM-II) dated 5.9.2013 whereunder this Tribunal is required to adjudicate the dispute i.e.,

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad District, in terminating the services of Sri Islvath Badya, Ex-Coal Filler, Kasipeta Mine, SCCo. Ltd., Mandamarri Area, SCCo. Ltd., Mandamarri Area with effect from 6.3.2003 is justified or not? If not, to what relief the applicant is entitled for?”

After receiving the above said reference this Tribunal registered the case with I D No. 90 /2013 and issued notices to both the parties and secured their presence.

2. The workman filed his claim statement with the averments in brief as follows:

It is submitted that the Workman was initially appointed as an employee temporarily on 7.4.1987 and later he become permanent an employee. But during the year 2002, the Workman could not be regular to his duties due to his ill health and other family problems. While the matters stood thus, charge sheet was issued to him by the Respondent alleging that the Workman absented for duty during the year 2002, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Workman was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Workman was dismissed from service vide order dated 12.10.2002. It is stated that during the course of the enquiry the Workman has categorically stated regarding his inability to perform his duties regularly during the year 2002, and it was only on account of his ill-health and other family problems. But without considering any of his submissions, the Workman was dismissed from service. It is also stated that the action of the Respondent management in dismissing the Workman from service is wholly illegal, arbitrary, violative of the principles of natural justice. There was a settlement that those who were removed between 1.1.2000 to 31.12.2004, those cases can be considered by the management as per the circular No.P.40/5911/IR/33, dated 10.3.2000, thereafter the Petitioner was called for an interview on 16.11.2002, but his case was not considered for re-employment. It is submitted that after his removal, the Petitioner along with his family was thrown on roads and suffered untold sufferings. Hence, the Petitioner raised this dispute before this Hon'ble Tribunal. It is prayed that this Tribunal isto direct the Respondent to reinstate the Petitioner into service with continuity of service and other attendant benefits with full back wages, by setting aside the dismissal order dated 12.10.2002.

3. The Respondent filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:

In the counter the Respondent while admitting some of the factual aspects to be true, stated that the Workman was appointed in the Respondent's company on 7.4.1987 as a Badli Filler and later he was regularized as Coal Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Workman has attended the enquiry on the date fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Workman was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Workman by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Workman is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Workman from service. It is stated that in fact the Workman was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. The Workman was given full, fair and reasonable opportunity to defend his case. He has not produced any witness on his behalf. After a detailed enquiry the workman was removed from service vide order No.MMR/PER/D/072/848, dated 25.2.2003 with effect from 6.3.2003 but not vide letter No.MMR/R/PER/DE/042/4108 dated 12.10.2002 as claimed by the Petitioner. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. The domestic enquiry conducted by the Respondent is held as legal and valid vide order dated 14.7.2017.

5. Both the parties have advanced their arguments U/s.11A of the Industrial Disputes Act, 1947 in support of their claim.

6. In view of the above facts, the points for determination are:

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Islvath Badya is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No. I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above facts but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing capital punishment. But the authority has not considered any of the submissions of the Petitioner, and has imposed capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent submitted that when the Petitioner was a chronic absentee and was found guilty of the charges levelled against him, the punishment imposed by the Respondent's company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to ill health and other family problems of the Petitioner, he could not be able to regular in his duty, he remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed on the Petitioner. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 43 years, he is now aged about 48 years and is searching ways and means to provide bread and butter to his family members. The Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to the court at the age of 43 years to work under the Respondent. In such a circumstances, atleast one chance should be given to him for reinstatement into service in order to save his family members. Admittedly several modes of punishment are enumerated in company's Standing Orders. But in the case at hand the Petitioner is a first offender and has worked under the Respondent for a period of 15(fifteen) years. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondent for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Islvath Badya is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Islvath Badya is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondent's management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondent's management.

Thus, Point Nos. II & III are answered accordingly.

RESULT:

In the result, the action of the General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad District in terminating the services of Sri Islvath Badya, Ex-Coal Filler, Kasipeta Mine, SCCo. Ltd., Mandamarri Area, w.e.f. 6.3.2003 is not legal and justified and is hereby set aside. It is ordered that the workman be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman shall not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry and in the event of completion of one year of probation satisfactorily, the workman is to continue in service till the age of attaining superannuation. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 25th day of September, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1519.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 97/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.9.2018 को प्राप्त हुआ था।

[सं. एल-22012/489/1996-आईआर (सी.एम.- II)]

राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 97/2000) of the Central Government Industrial Tribunal-cum-Labour Court Lucknow, as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 26.9.2018.

[No. L-22012/489/1996-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

PRESENT : RAKESH KUMAR, Presiding Officer

I.D. No. 97/2000

Ref. No. L-22012/489/96-IR(C-II) dated 15.12.1998

BETWEEN :

The State Secretary,
Bhartiya Khadya Nigam Karmchhari Sangh,
(Espousing cause of Sri Asha Ram Azad)
5-6, Habibul Estate, Hazratganj, Lucknow-226001

AND

1. The Sr. Regional Manager,
Food Corporation of India,
5-6, Habibullah Estate, Hazratganj,
Lucknow-226001

AWARD

1. By order No. L-22012/489/96-IR(C-II) dated 15.12.1998 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between State Secretary, Bharatiya Khadya Nigam Karmchhari Sangh, Lucknow and the Sr.Regional Manager, FCI, Lucknow for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF FOOD CORPORATION OF INDIA, LUCKNOW IN DISMISSING SH. ASHA RAM AZAD IS LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF IS THE WORKMAN ENTITLED TO.”

3. As per the claim statement W-3 dt. 23.03.1999, the petitioner union has stated in brief that the workman Sri A.R. Azad had joined FCI on 29.03.1976 as TA-III, was promoted to TA-II on 01.09.1980, due to his good work, was again promoted from TA-II to TA-I vide order dt. 29.11.1984, which was circulated by District Office through letter dated 19.12.1984, the promotion order indicated that the workman would be on probation for a period of one year which is extended for further one year. It has further been stated that the probationary reports of the concerned promoted officials were written before every six months and the decision was to be taken on the basis for first two probationary reports, if employee being found suitable on the basis of such reports, he was confirmed otherwise probation period was to be extended for further period of one year prior to the completion of one year.
4. The petitioner has submitted that the probation period of the workman as such he was deemed confirmed on the post of TA-I. The probation period was extended vide order dt. 14/26.12.1986 retrospectively w.e.f. 22.12.1985 to 21.12.1986. The said order is illegal and it could not have been passed retrospectively, rather the workman deemed to have been confirmed w.e.f. 22.12.1985 on the post of TA-I, his probationary reports were excellent and therefore the extension of the probation period was illegal.
5. The applicant has submitted that the promotion was given by opposite party No. 2, while probation was extended by the Regional Manager who is junior to Zonal Manager as such the order is without jurisdiction. The Regional Manager has illegally reverted the workman vide order dt. 8.12.1986, no charge sheet was issued to him till the date of reversion, the review order is illegal. The representation dt. 05.01.1987 was made by the workman but it was not considered neither it was replied to. The Regional Manager has served a illegal charge sheet dt. 25.06.1987, details have been given in para 14 of the claim statement. The said charges were denied by the workman, enquiry officer was appointed by the management, but several enquiry officers were changed by the management to get the desired enquiry report. Additional defence documents were submitted by the workman vide list dt. 6.10.1987 but these documents were not considered in the enquiry and the same was ignored by the enquiry officer, therefore effective cross examination of the witness could not be done. Reasonable opportunity of defence was denied. The Defence Assistant provided by the management could not attend the enquiry due to official reasons but this fact was also not appreciated by the Enquiry Officer. Although being seriously ill and suffering from Eye Flu etc., the workman was compelled to cross examine the prosecution witness and the enquiry was conducted in haste and the report was submitted with prejudice. Arguments before the enquiry officer were also closed abruptly, and prior to the submission report by the enquiry officer, the Sr.Regional Manager passed the orders. Review petition filed by the workman was also not duly appreciated by the competent authority. After remand of the matter to the opposite party no.2, the workman was not called to submit his version. It has also been alleged that under similar circumstances the charge sheeted co-accused was exonerated by the management but the workman was punished illegally. With the aforesaid pleadings, request has been made to set aside the reversion order dt. 08.12.1986 and the dismissal order dt. 12.08.1988 as well the Appellate Order dt. 08.12.1992 alongwith the review order dt. 26.02.1996, with the request to ensure disbursement of all the consequential benefits and seniority etc.
6. The management while denying the allegations leveled in the claim statement had filed written statement M-7 dt. 03.3.2001. The opposite party has submitted that the promotion was not due to workman's good work rather it was made in usual course and routine matter. The promotion earlier granted to the workman was rightly recalled as per Rules since the Vigilance enquiry was found pending against the workman, more over the workman was found involved in a vigilance case and his report was not satisfactory, the charge sheet was submitted as per Rules and settled norms, preliminary hearing and final enquiry was also conducted during the enquiry properly but on the date fixed neither the workman nor his Authorized Representative was present, therefore ex-parte proceedings were initiated. Sufficient opportunity was provided to the workman to cross examine the witness and to adduce defence evidence as well. The enquiry report was not influenced by any extraneous consideration. Appropriate order was passed on the enquiry report and the review petition and appeal moved by the workman was also properly disposed off by the concerned authorities.
7. The opposite party has also submitted that the workman had filed a Writ Petition before the Hon'ble High Court, Lucknow Bench Lucknow in the year 1988 wherein almost all the allegations were same which have been mentioned in this claim statement. The opposite party has also submitted that the dispute was not covered under the I.D. Act. and it is beyond jurisdiction of this Tribunal. The union has also no authority to file the claim statement on behalf of the workman. With the above submissions, request has been made to reject the claim statement. The opposite party has filed several documents as per list M-8 dt. 04.04.2001.

8. With strong denial of the counter allegations leveled in the written statement, the workman has filed rejoinder dated 27.07.2000, reiterating the pleas taken in the claim statement, alongwith comprehensive list of documents as per W-6.
9. Two preliminary issues were framed by the then Hon'ble Judge/PO on 04.04.2001:
 1. Whether the domestic enquiry was fair and proper? and
 2. Whether findings of the enquiry officer is perverse?
10. These issues were disposed off vide order dt. 01.05.2002 passed by the then Hon'ble Judge/PO holding thereby that the enquiry was defective and the management was provided opportunity to prove charges before the Tribunal.
11. The workman adduced himself in the evidence and he was thoroughly cross examined on behalf of the management.
12. The management adduced Mr. Anil Kumar Tarsolia, Kabir Mohd. Ganesh Kumar, Shashank Chand Solia and J.N. Verma and the management witnesses were examined on behalf of the workman.
13. The case has been lingering on for hearing of arguments but was adjourned either due to absence or non cooperation of the parties concerned. Notices through registered post were sent by the office on my directions. Even then on several dates none appeared for the workman. Under these circumstances comprehensive arguments advanced on behalf of the management were heard at length and record has been scanned thoroughly. Written arguments have also been filed by both the parties.
14. It has been alleged on behalf of the petitioner that the workman Sri A.R. Azad although being given two promotions, was abruptly reverted to lower post without genuine cause. Later on a prejudiced unfair enquiry was conducted and dismissal order was passed and appeal was also decided against the workman without assigning cogent reason. While refuting the allegations, management has submitted that the workman was involved in a serious matter, vigilance enquiry was being conducted, report was not satisfactory, therefore charge sheet was submitted as per Rules, preliminary and final enquiry was conducted in appropriate manner, and workman was punished on the basis of the enquiry report since he was found guilty.
15. The allegation regarding an unfair and hasty enquiry, has to be determined on the basis of record and evidence. The record submitted before the Court reveals that for cross examination prosecution witness, before the enquiry officer earlier 21.05.1988 was fixed, further 21.07.1988, 09.08.1988 and 10.08.1988 were the date fixed for the parties. The Presenting Officer got re-examined the first prosecution witness on 10.08.1988, apparently no opportunity was provided to the workman to confront this witness after his re-examination and the Presenting Officer closed the case, defence also closed, thereafter the enquiry officer treated the case as closed the same day, direction was given to the Presenting Officer to submit the arguments. However, although workman requested to submit his written brief but this request was not acceded, and he was forced to argue his case orally. The petitioner could not produce the Defence Assistant from 06.08.1988 to 08.08.1988 and on 09.08.1988 till 3 P.M. his Defence Asstt could not be produced before the Enquiry Officer. Enquiry which was pending for a long time, could not be adjourned further by the Enquiry Officer on the request of the workman. On 10.08.1988 the petitioner workman was suffering from Eye Flue he was not fit even then he was directed to take his defence in the absence of his Defence Assistant. Surprisingly the report of about 10 pages was prepared on the same day by the Enquiry Officer, viz. on 10.08.1988 and the Sr.Regional Manager/Disciplinary Authority imposed the penalty of dismissal from service on 12.08.1988, apparently in a hasty and cryptic manner.
16. During the domestic enquiry the workman has requested in Oct.1987 for inspection of certain documents and also requested for providing its copies, but without assigning any cogent reason, disallowing his application, the request was not accepted.
17. It has also not been brought on record, which official has received the material required to be dispatched to Manglore. Mr. A.K. Tarsolia, management witness, in his cross examination before this Tribunal on 21.10.2003 has shown his ignorance whether material received back from Manglore was subjected to its "Quality Assessment", more over duty of Asstt. Manager(Store) has also been mentioned in his reply by the above witness regarding dispatch of the material from the concerned Depot as per the established norms and the appropriate "Programme". Another management witness Mr. Kabeer Mohd was cross examined on 22.10.2003 but he has shown his ignorance for quality of material dispatched for Manglore. Similarly other management witness Sri G. Kumar in his cross examination dt. 22.10.2003 has asserted that he was never been posted at Orai, Manglore and Jhansi. He was also not posted at Orai during the period in question. Next management witness Mr. Shashank Chaurasia in his cross examination dt. 24.11.2003 has asserted that unless and until the whole food grain after being unloaded from wagon, is dumped, opinion regarding its quality can not be given. This witness had never examined, the stock in question, neither he was ever posted at Orai Depot. Next witness Mr. J.N. Verma in his cross examination dt. 24.11.2003 has stated that the aforesaid stock was not dispatched from his unit, documents referred by him were not prepared before him neither by him.

18. During the domestic enquiry or before this Tribunal, no official or responsible person from Manglore was produced to prove the allegations or charges framed by the management against the workman. More over, no complaint was never made by the labour who had loaded the food grains. After receiving back the stock from Manglore, its quality was not examined so as to corroborate the fact of alleged sub- standard material.
19. The plea that the matter related to the year 1985, therefore the concerned official of that period could not be produced before this Tribunal, can not be genuinely accepted in the absence of other satisfactory reasons. The evidence led by the management before the Court is quite shaky, vague and insufficient to corroborate the charges against the workman.
20. After having gone through the written arguments submitted by both the parties in the light of the documents/evidence available before this Court, and taking into cognizance the intellect arguments advanced on behalf of the management, it is inferred that action of the management of Food Corporation of India, Lucknow in dismissing the workman Sri Asha Ram Azad can not be adjudged as legal and justified. The workman is entitled to his reinstatement as well as to get all the consequential official and pecuniary benefits. The management is directed to ensure the payment due to the petitioner workman within 10 weeks of the notification of the award, failing which the workman would also be entitled to get 6% interest on the sum due.
21. Award as above.

RAKESH KUMAR, Presiding Officer

LUCKNOW

19.09.2018

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1520.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 183/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.9.2018 को प्राप्त हुआ था।

[सं. एल-22012/481/1999—आईआर (सी.एम.— II)]

राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 183/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of M/s. S.E.C.L. and their workmen, received by the Central Government on 26.9.2018.

[No. L-22012/481/1999—IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/183/2000

Date: 31.08.2018

Party No.1 : The Chief General Manager,
SECL, Kusumunda Project,
PO: Kusumunda, Distt. Korba,
Korba (MP) – 495454.

Versus

Party No.2 : The Vice President,
Madhya Pradesh Koyla Shramik Sangh (CITU),
Qtr. No. M/192, Pump House,
PO: Korba Colliery, Korba (MP).

AWARD

(Dated: 31st August, 2018)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of SECL and their union, Madhya Pradesh Koyla Shramik

Sangh (CITU) for adjudication, as per letter No.L-22012/481/99-IR (CM-II) dated 28.06.2000, with the following schedule:-

“Whether the action of the management of SECL, Kusumunda Area in denying the promotion to Shri M.D. Diwan, Pitman, Clerk-III to the post of Clerk-II w.e.f. 04.01.1983, Clerk-I w.e.f. 13.05.1988 and from Clerk-I to Sr. Clerk w.e.f. 22.01.1994 is justified? If not, to what relief workman is entitled?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, Madhya Pradesh Koyla Shramik Sangh (CITU) (‘the union’ in short), filed the statement of claim and the management of SECL (‘Party No. 1’ in short) filed their written statement.

3. The union filed a statement of claim by asserting that, Shri Manidas Diwan was appointed and posted at Rajgamar Colliery w.e.f. 10.08.1977 and was promoted to the post of Pitman/Trip man/Dump man in NCWA-II in Clerical Grade – III alongwith Shri Laxmi Prasad, Khitish Barai, Ganga Ram and Tarkeshwar Singh. Then he might be promoted to the post of Clerical Grade as per Annexure ‘B’, but management left his name in promotion list. Again in the month of March, 1984, his junior employees were promoted on Grade – II, so he was superseded by the management.

4. On the above unmerit promotion, workman made a representation before dy. DPM, Kusmunda Area and he also filed an appeal, but management did not pay heed towards his representation. So, he prayed that, management giving seniority in the post of Clerk Grade – II, he prayed for promotion for Clerk Grade – I and prayed for referring management for such partly promotion and prayed for difference of wages but the management has not taken any action on the subject. After approaching day to day to the management and given several reminders and also prayed for refer his dispute through settlement by union but not yet considered his case by SECL, management. According to the union, management considered for promotion of the workman as Clerk Gr. II w.e.f. 04.01.1983 and also prayed to pass an order for payment of difference of wages.

5. Management filed written statement with admitting that, Mr. M.D. Diwan, appeared for statutory examination under Mines Act and Regulation but it was denied that he was appointed and posted at Rajgamar Colliery w.e.f. 10.08.1977 and it is also denied that he was entitled for promotion alongwith other workers. It was admitted that Mr.M.D. Diwan was promoted alongwith other workers with posting at Kusmunda Project. It was also admitted that Shri Laxmi Prasad was also promoted with Shri Diwan, but it was denied that Shri M.D. Diwan was superseded in the promotion from Clerk Gr.II to Gr.I.

6. According to the management, no settlement was arrived between Mr. Diwan and management in regard to promotion to the post of Clerk Gr.II, so no question arises to implement the settlement. It is also denied that, management intentionally changed the seniority of Mr. Diwan, because of his Trade Union activities and refused to promote him in higher post. According to the management, no permission was granted to the workman to raise the issue before Industrial Court. According to them, infact there was no case between management and union. So they prayed that, reference may kindly be answered in favour of management.

7. The union filed rejoinder in support of his statement of claim and denied the fact asserted by the management in their reply.

8. **Point of determination :-**

a. Whether action of management in denying the promotion of Mr.M.D. Diwan to the post of Clerk Gr.I is justified ?

b. Whether workman is entitle to any relief?

Reasons of determination:

9. The union did not produce any evidence in support of the their claim, but on behalf of the management, evidence on affidavit filed by the management i.e. Affidavit of Mr. Shailesh Parasher, working as Assistant Management (P), Kusmunda Project of SECL was filed on 27.06.2018, but no witness was cross examined in Court. No document was proved by any party. In my opinion, burden of proof is on union, because mostly facts are denied by the m management.

10. Moreover Party No.1 filed a W.P. No.140/2001 before Hon’ble High Court of Judicature Chhitishgarh, Bilaspur, which was decided on 07.03.2013 and W.P. was dismissed.

11. Judging the present case, this case has no merit and without any evidence, so in my opinion, the union failed to prove the case on merit. Hence it is ordered.

ORDER

The action of the management of SECL, Kusumunda Area in denying the promotion to Shri M.D. Diwan, Pitman, Clerk-III to the post of Clerk-II w.e.f. 04.01.1983, Clerk-I w.e.f. 13.05.1988 and from Clerk-I to Sr. Clerk w.e.f. 22.01.1994 is justified. The workman is not entitled to any relief.

S. S. GARG, Presiding Officer

नई दिल्ली, 12 अक्टूबर, 2018

का.आ. 1521.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 94/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9.10.2018 को प्राप्त हुआ था।

[सं. एल-22013/01/2018-आईआर (सी.एम.- II)]

राजेंद्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th October, 2018

S.O. 1521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 9.10.2018.

[No. L-22013/01/2018-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 24th day of September, 2018

INDUSTRIAL DISPUTE L.C. No. 94/2008

Between:

Sri Sd. Sayeeduddin,
S/o Syed Basheeruddin,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

... Petitioner

AND

1. The Director (PA &W),
M/s. Singareni Collieries Company Ltd.,
Kothagudem, Khammam District.
2. The Chief General Manager,
M/s. Singareni Collieries Company Ltd.,
Manuguru Area, Manuguru, Khammam District.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
PK.1 Incline, Manuguru,
Khammam District.

... Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

Sri Sd. Sayeeduddin who worked as Electrician (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. MNG/PER/8/2642 dated 30.11.2007 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows:**

The Petitioner was initially appointed as Electrician apprentice in the month of February, 1979 and later he was confirmed as Electrician in the year 1981. He was regular to his duties till the year 2005. But during the year 2006, the Petitioner had taken his daughter to Hyderabad for better treatment, as she was deaf and suffering with mental imbalance. The Petitioner had no other alternative except to take his daughter to Hyderabad as no other male member was available with him to take his daughter. While the matters stood thus, charge sheet dated 20.4.2007 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 2006, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. MNG/PER/8/2642 dated 30.11.2007. It is stated that during the course of the enquiry the Petitioner has categorically stated about his inability to perform his duties regularly during the year 2006, as it was only on account of his daughter's ill-health. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents' management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered 27 years of continuous service in the Respondents' management till the date of his dismissal. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. MNG/PER/8/2642 dated 30.11.2007 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:**

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 8.2.1979 as Apprentice and appointed as an Electrician Category-IV on 1.1.1982. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the dates fixed for the enquiry and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondents were constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Counsel for the Petitioner conceding the legality and validity of the domestic enquiry conducted in the present case, the domestic enquiry conducted by the Respondents is held as legal and valid vide order dated 19.12.2016.

5. Both the parties have advanced their arguments U/s.11A of the Industrial Disputes Act, 1947 in support of their claim.

6. **In view of the above facts, the points for determination are:**

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Sd. Sayeeduddin is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to the mental illness of his daughter and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above facts but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his daughter's illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing capital punishment. But the authority has not considered any of the submissions of the Petitioner, and has

imposed capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty of the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to ill health and other family problems of the Petitioner, he could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 50 years, he is now aged about 60 years and is searching ways and means to provide bread and butter to his family members. In such a circumstances, atleast one chance should be given to him for his reinstatement into service in order to get all his terminal benefits. Admittedly several modes of punishment are enumerated in company's Standing Orders. But the management without considering the genuine grievance of the Petitioner decided to impose capital punishment. The Petitioner is a first offender and has worked for about twenty two years under the Respondents. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as the difficulties of his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Sd. Sayeeduddin is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Sd. Sayeeduddin is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But unfortunately, during the pendency of this case the Petitioner has attained the age of superannuation. So, no question of service under the Respondents is expected from the Petitioner. But only he is to be reinstated into service to get his service benefit and also entitled to get 50% of back wages.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. MNG/PER/8/2642 dated 30.11.2007 issued by the 1st Respondent is declared as illegal and is hereby set aside. It is ordered that the workman Sri Sd. Sayeeduddin be reinstated in service only to get his terminal benefits. He is entitled to get 50% of back wages. The Respondents are directed to give all the terminal benefits along with 50% of back wages to the Petitioner after four months of this order, failing which the Petitioner is at liberty to recover the same through the process of law.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 24th day of September, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1522.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 157/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/56/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1522.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 157/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/56/2013-IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 30th August, 2018**Reference: (CGITA) No- 157/2013**

1. The General Manager,
Western Railway,
Churchgate, Mumbai – 400020
2. The Divisional Railway Manager,
Western Railway, Divisional Office,
Bhavnagar Division,
Bhavnagar (Gujarat)

... First Parties

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat) – 382470

... Second Party

For the First Party : Shri H.R. Raval

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/56/2013-IR(B-I) dated 19.09.2013 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

- i. “Whether the demand of the union for framing clear procedure and guidelines to enable a railway servant to exercise his right as citizen of India to seek information under the R.T.I. Act, 2005 without transgressing the lines of discipline is justified? If so, what directions are necessary in the matter?”
- ii. “Whether the action of the management in relation to Divisional Railway Manager, Bhavnagar in imposing major penalties vide NIP No. ED/308/2009/18 dated 02.03.2012 and No. ED/308/2011/17 dated 02.05.2012 on Shri Sanjay Tirdiya is legal and justified? If not, what relief the workman concerned is entitled to and what directions are necessary in the matter?”

- iii. “Whether the action of the management in relation to Bhavnagar Division of Western Railway in removing the notice board of Paschim Railway Karmachari Parishad, Ahmedabad from the office of D.R.M., Western Railway, Bhavnagar is legal and justified? If not, what relief the union is entitled to and what directions are necessary in the matter?”
1. The reference dates back to 19.09.2013 and received on 03.10.2013 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
 2. Both the parties submitted the statement of claim and written statement but the second party workman named Sanjay Tirdiya as stated in his statement of claim has been working as Office Superintendent at Divisional Railway Hospital, Bhavnagar who was imposed with a penalty of removal from service and he prayed for giving direction to the first party to retain him at his original post at Divisional Railway Hospital, Bhavnagar.
 3. The second party union The President, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad, despite giving opportunities to lead evidence refrained to lead evidence and stated vide application Ex. 24 that he cannot proceed/prosecute the case.
 4. It is noteworthy that the reference relates to a person named Sanjay Tirdiya who had been the Office Superintendent in Bhavnagar Railway Hospital and he was removed from service on disciplinary grounds. It is noteworthy that under Section 2 (s) of the Industrial Disputes Act, 1947, a person who has been holding a managerial administrative post cannot be termed as “workman”. Thus on this very ground also, the workman concerning the reference was not a workman and this was the probable reason that the second party union is avoiding to prosecute the case.
 5. Thus the reference is disposed of as not pressed.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1523.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 95/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/72/2011-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1523.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/72/2011-IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 06th September, 2018

Reference (CGITA) No. 95/2011

1. The Chief Works Manager,
Engineering Workshop,
Western Railway,
Sabarmati, D Cabin,
Ahmedabad (Gujarat)
2. The Chief Engineer (Workshop),
Western Railway,
Churchgate, Mumbai

...First Parties

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat) – 382470

...Second Party

For the First Party : Shri Yogi K. Gadhia

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/72/2011–IR(B-I) dated 08.12.2011 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Chief Works Manager, Engineering Workshop, Western Railway, Sabarmati, Ahmedabad in not giving promotion to Shri Lalit Kumar, Welder Grade-III despite his name in B list, is legal and justified? To what relief the workman/union is entitled?”

1. The reference dates back to 08.12.2011 and received on 22.12.2011 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party union submitted the statement of claim Ex. 5 alleging that the first party issued an advertisement to fill up the post of Welder Grade II and the workman was selected for the post of Welder Grade II besides other candidates and the second party workman was shown in the list B. The second party workman Lalit Kumar being a schedule caste was required to be considered on priority basis. It is further alleged that 7 persons named in the statement of claim were also selected for the said post who were placed in the list A. One of the workmen Bhavan Singh L. who was shown at Serial No. 1 in list A expired on 15.11.2003, therefore, as per the rules, Lalit Kumar ought to have been considered for the post of Welder Grade II in the event of death of Bhavani Singh L. but it was not done so. Therefore, he was deprived of his legal right for being considered as Welder Grade II in the event of death of Bhavan Singh L., therefore, he has prayed for granting promotion to the workman on the post of Welder Grade II w.e.f. 16.02.2004 with all benefits.
3. The first party in his written statement Ex. 11 denied all the averments made in the statement of claim and submitted that Lalit Kumar was placed in the list B vide notification dated 04.08.2003 and the employees available in the list A were called for trade test and empanelment and promoted to the post of Welder Grade II vide office order dated 16.02.2004. The workman was neither placed on penal nor was available in the order of promotion, therefore, the reference has no force and liable to be dismissed.
4. On the basis of the pleadings, the following issues arise:
 - I. Whether the action of the management of Chief Works Manager, Engineering Workshop, Western Railway, Sabarmati, Ahmedabad in not giving promotion to Shri Lalit Kumar, Welder Grade-III despite his name in B list, is legal and justified?
 - II. To what relief, if any, the concerned workman is entitled to?
5. Both these issues are interrelated, therefore, are decided together.
6. **Issue No. I and II:** The burden of proof of these issues was lying on the second party workman. The second party submitted the affidavit Ex. 8 wherein he has reiterated the averments made in the statement of claim but in his cross-examination, he has stated that he has working as Master Craft Man in the Engineering Workshop, Sabarmati. He was given promotion of Welder Grade II in the year 2004 and he cannot recall the date and month of promotion in the year 2004. He has further stated that those 6 persons who have been promoted earlier to him were senior to him and were placed in the list. While he was empanelled at Serial No. 1 in the list B, no other person except him from the list B has promoted. He further stated that he was promoted on a vacant post which was vacant since last one year but he does not have proof of it.
7. The first party does not prefer to lead any evidence. I considered the evidence of the second party workman. His evidence itself reveals that he was promoted as per his turn of promotion. He was not being superseded, therefore, the prayer sought by the second party union has no force and does not deserve for any relief.

8. Thus the reference is disposed of with the observation as under: "the action of the management of Chief Works Manager, Engineering Workshop, Western Railway, Sabarmati, Ahmedabad in not giving promotion to Shri Lalit Kumar, Welder Grade-III despite his name in B list, is legal and justified."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1524.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 07/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/69/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1524.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/69/2015- IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 30th August, 2018

Reference: (CGITA) No. 07/2016

The Chief Works Manager,
Engineering Factory,
Western Railway, D Cabin, Sabarmati,
Ahmedabad (Gujarat)

...First Party

V/s

The Additional Divisional Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat) – 382470

...Second Party

For the First Party : None
For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/69/2015-IR(B-I) dated 30.12.2015 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the Additional Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Chief Works Manager, Engineering Factory, D Cabin, Ahmedabad to promote Shri Ram

Kumar Desai in Grider – III is legal, fair and justified? If so, then what relief the workman, Shri Ram Kumar Desai is entitled to?"

1. The reference dates back to 30.12.2015 and received on 11.01.2016 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. Both the parties issued notice Ex. 2 on 04.05.2018 to appear on 11.06.2018. Postal Acknowledgement Slips were also received of both the parties vide Ex. 3 and 4. The case was fixed for filing of statement of claim by the second party union.
3. Today on 30.08.2018, Shri R.S. Sisodiya, The Additional Divisional Secretary, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad stated in the Tribunal he does not want to proceed with the case.
4. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1525.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 97/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41012/16/2007-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1525.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 97/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41012/16/2007- IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,

AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court, Ahmedabad,

Dated 06th September, 2018

Reference (CGITA) No. 97/2007

1. The Sr. Divisional Electrical Engineer,
Western Railway, Kalupur, Ahmedabad (Gujarat)
2. The Senior Medical Officer,
Western Railway, Kalupur, Ahmedabad (Gujarat)
3. The Senior Section Engineer (TL),
Western Railway, M.G. Gomitpur Yard, Kalupur,
Ahmedabad (Gujarat)

... First Parties

V/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E-209, Sarvottam Nagar, Sabarmati,
Ahmedabad (Gujarat)

... Second Party

For the First Parties : Shri R.V. Tiwan
 For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/16/2007–IR(B-I) dated 04.10.2007 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union Paschim Railway Karmachari Parishad for wages for the period from 20.06.2005 to 08.11.2005 to Shri Zarilal J., ELF-II is legal and justified? If so, to what relief the concerned workman is entitled to?”

1. The reference dates back to 04.10.2007 and received on 12.10.2007 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party union The General Secretary, Paschim Railway Karmachari Parishad, E-209, Sarvottam Nagar, Sabarmati, Ahmedabad submitted the statement of claim Ex. 7 on 05.12.2011 alleging that the second party workman Zarilal J. proceeded on leave from 16.06.2005 to 18.06.2005 on the ground of sick. 19.06.2005 was Sunday, therefore, he reported on 20.06.2005 but the Supervisory Officer did not resume his duty despite the fact that he attended the office continuously up to 08.11.2005. The controlling officer awarded punishment after holding departmental enquiry. He filed appeal to the appellate authority but the appeal was dismissed without examining his case properly. Thus he has prayed for payment of wages from 20.06.2005 to 08.11.2005 with 16% interest.
3. The first parties in their joint written statement Ex. 8 submitted that the workman was absent from duty from 16.06.2005 to 08.11.2005. The workman was informed to get him examined by the Medical Officer of Indian Railway within 48 hours of reporting seek as per CGC Rules which he failed to do. He was also asked to submit fitness certificate on 18.06.2005 but he did not do so. Therefore, he cannot be said to be or eligible for rest on 19.06.2005 as he was sick from 16.06.2005 onwards. Thus he was subjected to departmental enquiry for unauthorised absence and was awarded minor penalty of “reverted as ELF Grade III coaching Scale of Rs.3050-4590/- as the minimum pay of Rs.3050 with a direction that the penalty will not affect his future promotion.” The disciplinary authority vide his order dated 14.12.2007 did not accept the enquiry report and on the basis of the representation of the workman, a lenient view was taken and was awarded a penalty of “stoppage of one increment for a period of one year with immediate effect” which was modified into “censure” by the appellate authority. Thus on the ground of punishment, he was not entitled for the wages claimed by him.
4. The second party workman submitted his affidavit Ex. 9 on 01.02.2017 but he never appeared for cross examination and today on 06.09.2018, his son informs that the workman has died on 27.08.2017.
5. The second party union The General Secretary, Paschim Railway Karmachari Parishad, E-209, Sarvottam Nagar, Sabarmati, Ahmedabad, did not move any application for substitution of legal heirs despite the expiry of one year.
6. Thus in the absence of moving application for substitution of legal heirs within 90 days of the death of the workman, makes the reference abate.
7. Thus the reference is disposed of as abate.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1526.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 77/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/08/2012-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1526.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/08/2012– IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 06th September, 2018**Reference (CGITA) No- 77/2012**

1. The Chief Engineer (Works),
Western Railway,
Churchgate, Mumbai
2. The Chief Works Manager,
Engineering Workshop,
Western Railway, Sabarmati,
Ahmedabad (Gujarat)

... First Parties

V/s

The Assistant General Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat) – 382470

...Second Party

For the First Party : Shri M.N. Pandit
For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/08/2012–IR(B-I) dated 04.05.2012 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Assistant General Manager, Paschim Railway Karmachari Parishad for withdrawal of punishment of withholding of 1 set of PTO to Shri Kapil Kumar Jha, Jr. Engineer-II, awarded by the management of Chief Works Manager, Engineering Workshop, Western Railway, Ahmedabad is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 04.05.2012 and received on 15.05.2012 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party union The Assistant General Secretary, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad submitted the statement of claim Ex. 3 on 31.08.2012 alleging that the workman Kapil Kumar Jha has been working as Junior Grade II who was served a suspension order dated 23.07.2010 and charge-sheet dated 03.08.2010. In the said departmental enquiry, he was awarded a minor punishment of censure. In the appeal, the punishment was modified into withdrawing the facility of one set of PTO to the workman which was without jurisdiction and against law on the ground that the appellate authority has not given any show cause notice while awarding the punishment.
3. The first parties The Chief Engineer (Works), Western Railway, Churchgate, Mumbai and The Chief Works Manager, Engineering Workshop, Western Railway, Sabarmati, Ahmedabad jointly submitted the written

statement Ex. 5 denying the averments made in the statement of claim Ex. 3 submitted that the statement of claim is not maintainable under order 7 Q and 11 A of the Evidence Act because the workman accepted the punishment by conduct. Therefore, the reference is barred by principle of estoppels. It is further submitted that the workman did not challenge the order of appellate authority regarding punishment before any appropriate forum till date. Thus the reference has no force.

4. The second party submitted the affidavit Ex. 6 of the workman Kapil Kumar Jha to prove his case on 18.11.2016. Since then, he did not appear for cross-examination despite giving ten opportunities and two last opportunities. Thus it appears that Kapil Kumar Jha does not want to contest the case and secondly, Kapil Kumar Jha cannot be said to be a workman as he was holding a post of Junior Engineer Grade II drawing a salary of Rs. 10000/- and also holding a post of supervisory nature.
5. Thus the reference is not maintainable as raised by the first party on the ground that the workman Kapil Kumar Jha cannot be said to be a workman under Section 2 (s) of the Industrial Disputes Act.

The Section 2 (s) of the workman defines workman as under: “

“Section 2 (s): “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person –

- (i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
 - (ii) Who is employed in the police service or as an officer or other employee of a person; or
 - (iii) Who is employed mainly in a managerial or administration capacity; or
 - (iv) Who, being employed in a supervisory capacity, draws wages exceeding (ten thousand rupees) per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”
6. The second party workman Kapil Kumar Jha as himself alleged that he was holding a post of Junior Engineer Grade II drawing a salary more than Rs. 10000/- and also a managerial/supervisory post. Thus this reference is misuse of judicial process and liable to be dismissed.
 7. Thus the reference is disposed of not maintainable.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1527.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 32/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/61/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1527.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/61/2010- IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 06th September, 2018

Reference (CGITA) No. 32/2011

1. The General Manager,
Western Railway,
Headquarter, Churchgate,
Mumbai
2. The Chief Works Manager,
Loco Carriage and Wagon Workshop,
Freelandganj,
Dahod (Gujarat)
3. The Chief Engineer (Works),
Western Railway,
Churchgate, Mumbai

...First Parties

V/s

The President,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat) – 382470

...Second Party

For the First Party : Shri N.J. Acharya

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/61/2010–IR(B-I) dated 28.04.2011 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Paschim Railway Karmachari Parishad, Ahmedabad for granting promotion to Shri Suvadan J. Suthar, Fitter Grade-I as Junior Engineer – II w.e.f. 04.04.2002 with consequential benefits by the management of Chief Works Manager, Loco Carriage and Wagon Workshop, Western Railway, Dahod/ the General Manager, Western Railway, Churchgate, Mumbai is legal and justified? To what relief the workman is entitled?”

1. The reference dates back to 28.04.2011 and received on 18.05.2011 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party union The President, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad submitted the statement of claim Ex. 3 on 28.07.2014. The first party submitted the written statement Ex. 7 on 19.07.2018.
3. The second party in his statement of claim Ex. 3 has alleged that the workman Suvadan J. Suthar initially was appointed as fitter and promoted to the post of Fitter Grade I. The first parties The General Manager, Western Railway, Headquarter, Churchgate, Mumbai, The Chief Works Manager, Loco Carriage and Wagon Workshop, Freelandganj, Dahod (Gujarat) and The Chief Engineer (Works), Western Railway, Churchgate, Mumbai in the year 2002 issued an advertisement to fill up the post of Junior Grade II and the workman applied for the said post, appeared and qualified the written test of the said post but the result of the said examination was withheld. Later, the first party issued another notification dated 09.01.2003 to fill up the said post of Junior Grade II and the workman again appeared in the written examination and interview but the result was again withheld.
4. It is further alleged that the first party again issued a notification on 04.06.2004 to fill up the said post and the workman again appeared in the said test and also succeed in the written test but he was not given appointment

on the post of Junior Engineer. The second party made a representation to the appropriate authorities and Regional Labour Commissioner pointing out the illegality being committed in the recruitment of Junior Grade II but to no result.

5. It is further alleged that the first party further issued notification dated 11.05.2005 mentioning the maximum age as 45 years and selecting another person for the post declaring the workman as unsuccessful in the year 2006. The union and the workman raised the dispute before the Labour Commissioner and therefore, this reference is pending for adjudication. The second party union in his statement of claim has prayed for declaring the second party workman successful in the examination for the post of Junior Grade II w.e.f. 04.04.2002 with all consequential benefits.
6. The first parties in their written statement Ex. 7 denied the averments made in the statement of claim and stated that the workman Suvadan J. Suthar was initially appointed as Fitter as Substitute Khalasi in Grade D. Later he was regularised as Khalasi. On being found suitable, he was also promoted to the post of Skilled Fitter Grade III, Grade II and Grade I as per his term. He has been working as Fitter Grade I since 05.08.1996. It is admitted that the first party issued a notification (not advertisement) on 04.04.2002 to prepare a penal to fill up 05 post of Intermediate Apprentice Mechanic to be absorbed as Junior Engineer Grade II. The workman Suvadan J. Suthar applied for the same and being eligible, informed to be ready to appear in the written test at short notice but in the mean time the railway board vide letter dated 12.08.2002 revised the educational qualification for selection as Intermediate Apprentice for absorption as Junior Engineer Grade II as ITI/Act Apprentice pass or 12th in Science stream instead of only Matriculation pass. Accordingly, the said notification dated 04.04.2002 was cancelled along with the notified eligibility list and a fresh notification was issued on 09.01.2003 as per revised educational qualification. It is denied that the workman appeared and passed the written test in response to the notification dated 04.04.2002 and the interview was not conducted intentionally by Railway Administration. Again an eligibility list was notified on 22.03.2003 in response to notification dated 09.01.2003 where in the name the workman appeared at Serial No. 23. The written test was conducted on 26.04.2003 and the workman appeared in the same. The result of the written test was not notified. In the mean time, the competent authority examined the proceedings of the selection and take a decision within his jurisdiction to cancel the proceedings of the selection up to conducting of the written test as per GM(E)-Mumbai letter dated 11.12.2003 which was notified *vide* CWM-Dahod letter dated 13.12.2003. The result of the written test held on 26.04.2003 was not notified this time also, as such it is denied that the workman has passed the written test. It is further submitted that *vide* notification dated 04.06.2004 and 01.11.2003, the letter was restructured and competent authority decided to prepare a fresh assessment of vacancies for the post of Intermediate Apprentice for absorption as Junior Engineer Grade II and accordingly, a fresh notification dated 11.05.2005 was issued for filling up the vacancies of 10 post. A written examination was conducted among the eligible candidates on 24.05.2006. The workman was also appeared in the said examination but this workman could not qualify said written test. Earlier also, he did not succeed in the earlier conducted examination. Thus the prayer made by the second party workman does not deserve into consideration.
7. Though the case was fixed for evidence of the second party and the second party workman is absent to lead evidence. Moreover, the reference is not maintainable as raised by the first party on the ground that the workman Suvadan J. Suthar cannot be said to be a workman. The Section 2 (s) of the Industrial Disputes Act defines workman as under: “

“Section 2 (s): “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person –

 - (i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
 - (ii) Who is employed in the police service or as an officer or other employee of a person; or
 - (iii) Who is employed mainly in a managerial or administration capacity; or
 - (iv) Who, being employed in a supervisory capacity, draws wages exceeding (ten thousand rupees) per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”
8. The second party workman Suvadan J. Suthar as himself alleged that he was denied the promotion to the post of Junior Engineer Grade II which is certainly a post drawing more than Rs. 10000/- as wages and also a managerial/supervisory post. Thus this reference is misuse of judicial process and liable to be dismissed.
9. Thus the reference is disposed of not maintainable.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1528.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 19/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/103/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1528.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/103/2012- IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 06th September, 2018**Reference (CGITA) No. 19/2013**

1. The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda (Gujarat)
2. The Sr. Divisional Finance Manager,
Western Railway,
Pratapnagar,
Baroda (Gujarat)
3. The Asstt. Divisional Engineer (South),
Western Railway,
Pratapnagar,
Baroda (Gujarat)

...First Parties

V/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Nr. Kothi,
Baroda (Gujarat)

...Second Party

For the First Party : None

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/103/2012-IR (B-I) dated 23.01.2013 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union to give 100% benefit, payment of settlement dues and pension to Shri Gulab Soma is legal, proper and just? If so, to what relief Shri Gulab Soma, Ex-partiwala is entitled to?”

1. The reference dates back to 23.01.2013 and received on 12.02.2013 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party union The Divisional Secretary, Paschim Railway Karmachari Parishad, Shastri Pole, Nr. Kothi, Baroda submitted the statement of claim Ex. 6 on 16.16.2016. The first parties despite service of notice did not prefer to submit the written statement, therefore, the reference was ordered to proceed ex-parte against the first party on 17.02.2017 asking second party to lead evidence on 28.04.2017 but despite giving half a dozen of opportunities and also giving last opportunity twice, the second party union as well as the workman has been absent and refrained to lead evidence.
3. Thus it appears that the second party union or its workman is not willing to prosecute the case.
4. It is noteworthy that it is case of 100% benefit, payment of settlement dues and pension to Shri Gulab Soma but the statement of claim reveals that the workman died on 23.10.1978 and his widow did not prefer to avail the benefits of compassionate appointment on the ground that his son was two months old and alleged to have requested for compassionate appointment to his son when he attained the age of 18 years which was alleged to be denied. Therefore, he has prayed for compassionate appointment and other benefits.
5. First the reference is barred by delay of 35 years and it has not stated in the statement of claim regarding the financial stress of the family for prima-facie establishing the case of compassionate appointment.
6. Thus the reference is disposed of in the absence of the evidence of the second party union or its workman with the observation as under: “the demand of the union to give 100% benefit, payment of settlement dues and pension to Shri Gulab Soma is not legal, proper and just.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1529.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 06/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/100/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1529.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/100/2013- IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 06th September, 2018

Reference (CGITA) No. 06/2014

The Sr. Divisional Electrical Engineer,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)

...First Party

V/s

The Joint Divisional Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat) – 382470 (Gujarat)

... Second Party

For the First Party : None

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/100/2013-IR (B-I) dated 23.12.2013 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management in removing Shri Bharat Bhim Singh, Sr. Khalasi, Western Railway, Ahmedabad for absence from duty for 173 days is justified? To what relief the workman is entitled to?”

1. The reference dates back to 23.12.2013 and received on 27.01.2014 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party union The Joint Divisional Secretary, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad submitted the statement of claim Ex. 3 on 07.10.2016. The first party The Sr. Divisional Electrical Engineer, Western Railway, Near Chamunda Bridge, Asarwa, Ahmedabad despite service of notice and giving half a dozen of opportunities to file the written statement, refrained to submit the written statement, therefore, the reference was ordered to proceed ex-parte against the first party on 12.10.2017 asking second party to lead evidence on 07.12.2017 but despite giving half a dozen of opportunities and also giving last opportunity twice, the second party union as well as the workman has been absent and refrained to lead evidence.
3. Thus it appears that the second party union or its workman are not willing to prosecute the case.
4. It is noteworthy that it is case where the workman Bharat Bhim Singh, Sr. Khalasi was removed from service for long absence of 173 days from duty which is a gross mis-conduct and lack sincerity in the performing of duty.
5. Thus the reference is disposed of in the absence of the evidence of the second party union or its workman with the observation as under: “the action of the management in removing Shri Bharat Bhim Singh, Sr. Khalasi, Western Railway, Ahmedabad for absence from duty for 173 days is justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1530.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 68/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41012/55/2016-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1530.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2017) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41012/55/2016- IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 31st August, 2018

Reference: (CGITA) No. 68/2017

1. The Chief Factory Manager,
Western Railway, Engineering Factory, D Cabin, Sabarmati,
Ahmedabad (Gujarat)
2. The General Manager,
Western Railway, Churchgate,
Mumbai – 400020

...First Parties

V/s

The President,
Akhil Bhartiya Karmachari Mahasangh,
28/B, Narayan Park, Behind Chandkheda Railway Station,
Sabarmati, Ahmedabad (Gujarat) – 382470

...Second Party

For the First Party : Shri Harish R. Raval

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/55/2016–IR(B-I) dated 21.07.2017 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the President, Akhil Bhartiya Karmachari Mahasangh, Ahmedabad against the Chief Factory Manager, Western Railway, Engineering Factory, D Cabin, Ahmedabad and General Manager, Western Railway, Mumbai to appoint Shri Sunil Kumar, S/o Late Shri Bharat Jokha, Crain Driver on compassionate ground is legal, fair and justified? If yes, then what relief Shri Sunil Kumar is entitled to?”

1. The reference dates back to 21.07.2017 and received on 31.07.2017 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. All the parties issued notice Ex. 2 on 03.01.2018 to appear on 08.03.2018. Postal Acknowledgement Slips were also received of all the parties vide Ex. 3, 4 and 5. On 08.03.2018, Shri Harish R. Raval submitted the vakalatpatra Ex. 6 on behalf of the first party. The case was fixed for filing of statement of claim by the second party union.
3. Today on 31.08.2018, Shri R.S. Sisodiya, The President, Akhil Bhartiya Karmachari Mahasangh, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad stated in the Tribunal he does not want to proceed with the case.
4. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1531.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 06/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/60/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1531.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/60/2015– IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 31st August, 2018**Reference: (CGITA) No. 06/2016**

1. The Divisional Railway Manager,
Western Railway, Asarwa, Near Chamunda Bridge,
Ahmedabad (Gujarat)
2. The Divisional Personnel Officer,
Western Railway, Asarwa, Near Chamunda Bridge,
Ahmedabad (Gujarat)
3. The General Manager,
Western Railway, Churchgate,
Mumbai - 400020

...First Parties

V/s

The Joint Divisional Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, Behind Chandkheda Railway Station,
Sabarmati, Ahmedabad (Gujarat) – 382470

...Second Party

For the First Party : Shri Navin Chandra Waghela

For the Second Party : Shri R.S. Sisodiya (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/60/2015–IR(B-I) dated 11.12.2015 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Jt. Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, Western Railway, Ahmedabad and others to grant GP Rs.4600 due to cadre restructuring w.e.f. 01.11.2013 to Shri Ashok Kumar Sahu is legal, fair and justified? If so, then what relief the workman, Shri Ashok Kumar Sahu is entitled to?”

1. The reference dates back to 11.12.2015 and received on 05.01.2016 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. All the parties issued notice Ex. 2 on 03.05.2018 to appear on 08.06.2018. Postal Acknowledgement Slips were also received of all the parties vide Ex. 3, 4, 5 and 6. On 31.08.2018, Shri Navin Chandra Waghela submitted the vakalatpatra Ex. 7 along with preliminary objections Ex. 8 on behalf of the first party. The case was fixed for filing of statement of claim by the second party union.
3. Today on 31.08.2018, Shri R.S. Sisodiya, The Joint Divisional Secretary, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad stated in the Tribunal he does not want to proceed with the case.
4. Thus the reference is disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 15 अक्टूबर, 2018

का.आ. 1532.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय पश्चिमी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 146/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.10.2018 को प्राप्त हुआ था।

[सं. एल-41011/46/2008-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 15th October, 2018

S.O. 1532.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 146/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 15.10.2018.

[No. L-41011/46/2008- IR(B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 06th September, 2018

Reference (CGITA) No. 146/2010

1. The General Manager,
Central Organisation, Railway Electrification,
Nawab Yusuf Road, Br. Old Loco Shed,
Allahabad (Uttar Pradesh) – 211001
2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda (Gujarat) – 390004

...First Parties

V/s

The President,
General Workmen's Union,
Sinduri Mata Devasthan, S.T. Nagar Road,
Godhra (Gujarat) – 389001

...Second Party

For the First Party : Shri Rajesh Singh Thakor

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/46/2008-IR(B-I) dated 17.12.2008 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of General Manager, Central Organisation, Railway Electrification, Allahabad and Divisional Railway Manager, Western Railway, Baroda in not giving re-employment to Shri Jummashah Nannnushah Diwan as per Section 25 G and 25 H of the I.D. Act though his junior has been given re-employment, is legal, proper and just? To what relief is Shri Jummashah Nannnushah Diwan entitled?”

1. The reference dates back to 17.12.2008 and received on 23.12.2008 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.

2. The second party union The President, General Workmen's Union, Sinduri Mata Devasthan, S.T. Nagar Road, Godhra submitted the statement of claim Ex. 4 alleging that the workman Jummarshah Nannushah Diwan was engaged in Group 42 of the Electrification Department of Western Railway at Vadodara under Central Organisation, Railway Electrification, Allahabad on 20.08.1984 in the pay scale of Rs.196-232/-. He was given temporary status on 28.08.1985 as per the circular dated 11.09.1986 issued by the first party. Later on 07.08.1986, he was promoted in the Grade of Rs.260-400/- but under the guise of the reduction of workload, the workman was retrenched on 20.07.1987 by a written order which is annexed as Annexure 1 to the statement of claim. He has further alleged that the first party did not calculate his working days till the date of retrenchment and despite being at Serial No. 173 in the seniority list; his seniority was not considered while passing the retrenchment order. He worked for more than 240 days in the last calendar year.
3. The second party union has further alleged that the second party union challenged the retrenched order dated 20.07.1987 before the Central Administrative Tribunal vide O.A. No. 16/1988 but the Tribunal dismissed the aforesaid O.A. It is noteworthy that 200 other employees were also served with the similar retrenchment order by the first party and those 200 employees challenged the retrenchment order before the Central Administrative Tribunal and the Tribunal allowed the petition of those 200 employees ordering restatement with back wages. The said order concerning the 200 employees was also challenged by the first party in the apex court vide SLP No. 1071 to 2012 of 1989 and the said SLP was dismissed by the apex court on 06.10.1989.
4. The second party union has further alleged that in pursuance of the order passed by the Central Administrative Tribunal on 19.12.1987 concerning 200 employees, the first party reinstated those 200 employees and some of them were junior to the present workman in seniority. Therefore, he is entitled for reinstatement.
5. The second party union has further alleged that the order passed in O.A. No. 16/1988 concerning the present workman was assailed in High Court of Gujarat *vide* SCA No. 1165/1988 wherein the High Court passed the order in the favour of present second party workman but the said order was challenged before the Supreme Court *vide* Civil Appeal No. 4552/2006 wherein the Supreme Court set aside the order passed by the High Court of Gujarat passed in SCA No. 1165/1988. The second party union also filed a review petition before the Supreme Court *vide* Review Application No. 1363/2006 but the same was rejected by the Supreme Court.
6. The second party union has further alleged that the first party re-engaged the junior employees in the year 1989, absorbed and made them permanent but due to the aforesaid litigation, he was not re-engaged nor was he called for screening for absorption on a permanent post. The first party also prepared the seniority list as per the Railway Board Circular dated 11.09.1986 and also as per the directions of the Supreme Court. One workman Udesing N. being at serial no. 174 of the seniority list who served for only 137 days has been re-engaged and made permanent under the orders and judgement of Central Administrative Tribunal while the present second party workman being at serial no. 173 of the seniority list having served for 224 days has not reinstated.
7. The second party workman tried to search job elsewhere but could not succeed. The Supreme Court passed the judgement on the point of retrenchment only and the issues of violations of provisions of Section 25 G and H of the Industrial Disputes Act were not taken into account, therefore, after appointment of junior employee, the provisions of Section 25 G and H of the Industrial Disputes Act are violated on the date when Udesing N. a junior employee was appointed. Therefore, he is entitled for reinstatement with back wages.
8. The second party union further alleged that in the judgement passed by the Supreme Court in Krishna Prasad Gupta V/s Controller, Printing and Stationery, 1996 (32) ATC 211, the Supreme Court has held that the Central Administrative Tribunal has no jurisdiction in the matters of Industrial Disputes Act. All the documents as referred above have been filed by the second party union *vide* list Ex.5. Thus the union has prayed for reinstatement of the workman with back wages.
9. The first party submitted the written statement Ex. 15 submitting that the averments made in the statement of claim are not correct and true. All the averments made in the statement of claim are false, frivolous, vexatious and time barred. However it is admitted that the second party workman was engaged as Casual Labour *vide* CPM/RE/Vadodara, not a part of Vadodara Railway Division. The second party union has no *prima-facie* case and has no right to file the statement of claim. The services of the workman were retrenched after closing of the project serving with a proper retrenchment notice under Industrial Disputes Act, 1947. The averments made in the Para 3, 4 and 5 of the statement of claim are admitted being part of record. The averments made in Para 6, 7, 8, 9, 10, 11, 12, 13 and 14 are also admitted concerning the litigation in Central Administrative Tribunal, High Court as well as Supreme Court and the averments made in Para 15 to 19 are not admitted.
10. The first party has submitted the documents regarding seniority list *vide* list Ex. 19/2. The seniority list Ex. 19/2 shows that the present workman was at serial no. 176 and Udesing N. was at serial no. 177 of the said seniority list.
11. On the basis of the pleadings, the following issues arise:
 - I. Whether the action of the management of General Manager, Central Organisation, Railway Electrification, Allahabad and Divisional Railway Manager, Western Railway, Baroda in not giving re-

employment to Shri Jummashah Nannnushah Diwan as per Section 25 G and 25 H of the I.D. Act though his junior has been given re-employment, is legal, proper and just?

II. To what relief, if any, the concerned workman is entitled to?

12. Both these issues are interrelated, therefore, are decided together.

13. **Issue No. I and II:** The burden of proof of these issues was lying on the second party workman. The second party union submitted the affidavit Ex. 16 of Jummashah Nannnushah Diwan wherein he has reiterated the averments made in the statement of claim. He has not stated anything contrary to his examination-in-chief.

14. The first party examined one Narendra Kumar D. Gupta, Officer Superintendent in Central Organisation Railway Electrification (CORE) at Allahabad *vide* affidavit Ex. 22 wherein he reiterated the averments made in the written statement Ex. 15 but he did not turn up for cross-examination, therefore, the first party submitted fresh affidavit Ex. 26 of another employee named Jagdish Prasad, Assistant Personnel Officer, Western Railway, Vadodara reiterating the averments made in the written statement Ex. 15 but in his cross-examination, he has stated that he does not have the full knowledge of the case. He does not know the workman personally. The second party workman was retrenched on 02.07.1987 by a written order. A seniority list was prepared of all the employees while retrenching them which is, exhibited at Ex. 19/1, correct and true. The present workman was retrenched along with others casual labours. All these casual labours challenged the retrenchment order before the Central Administrative Tribunal. The Tribunal allowed the petitions of these retrenched employees. The order of Central Administrative Tribunal concerning the present workman was challenged in the Supreme Court. The Supreme Court dismissed the said Special Leave Petition of the present workman. He does not know the reasons as to why the first party reinstated all the casual labours except the present workman Jummashah Nannnushah Diwan. He has also stated that Udesing N., a junior employee to the present second party workman was reinstated but he cannot explain as to why the present workman Jummashah Nannnushah Diwan being senior to Udesing N. was left for reinstatement. He has also stated that the workman Jummashah Nannnushah Diwan moved representation for absorption and re-regularisation but he was not re-regularised.

15. The first party further submitted the affidavit Ex. 30 of one Mithalal Ratanlal Jain, Deputy Chief Personnel Officer in the office of Chief Project Director, Railway Electrification, Ahmedabad who has been authorised to depose on behalf of Central Organisation Railway Electrification at Allahabad. Like the earlier witness, Mithalal Ratanlal Jain also reiterated the averments made in the written statement. In his cross-examination, he has stated that it is wrong to say that all the casual labours in Group No. 42 and 43 of the Ratlam and Vadodara Division of Western Railway Electrification have been regularised. He has also knowledge regarding the aforesaid Railway Divisions but he has no knowledge regarding the retrenchment in the year 1984. It is true that a seniority list was prepared in the year 1987. He does not know as to whether Udesing N. at serial no. 177 was re-engaged and regularised. It is true that Udesing N. was junior to the present workman.

16. heard the arguments of the learned counsel of the parties and considered the evidence oral and documentary on record.

17. It is an admitted fact that 200 casual labours including the present workman was retrenched on 20.07.1987 by a written order by the first party under the garb of insufficient workload. It is also admitted fact that all the 200 casual labours except the present workman were re-engaged and reinstated under the orders of Central Administrative Tribunal and Supreme Court as discussed above. It is also admitted fact that the present workman was not a party in the petition O.A. No. 16/1988 but later he moved the Central Administrative Tribunal and Higher forums on the ground of parity but he could not succeed. Presumably, the first party in a bureaucratic manner reinstated and regularised 200 employees and left this present workman in the garb of the fact that he did not succeed by way of litigation up to the Supreme Court.

18. The second party workman has referred Inder Pal Yadav V/s Union of India, 1985 (2) SCC 648, wherein the apex court observed in the fact of the case that casual labours employed on Railway Projects in continuous service for more than a year were retrenched on the ground of winding of the projects. The apex court directed the Railway Administration for framing a scheme for their absorption as temporary workman on the completion of 360 days of continuous employment. The said scheme was accepted by the Supreme Court directing that the absorption ought to be made in the order of length of continuous service and the principle of 'last cum first go' or in the reverse 'first come last go' under Section 25 G of the Industrial Dispute Act be implemented.

19. In the present case, it is true that 200 casual labours under the orders of Central Administrative Tribunal and Supreme Court were regularised but the present workman who was admittedly senior to Udesing N., Miss Smita, Hitesh G. Mehta and Ajay Ramchandra as appears from the seniority list Ex. 32 submitted by the first party, was not regularised. The equity says that as per the apex court judgement in Inder Pal Yadav V/s Union of India, 1985 (2) SCC 648, this workman despite losing the case from Supreme Court ought to have also been re-engaged, absorbed and regularised like the workman Udesing N. and others. The bureaucratic approach adopted by the first party cannot be appreciated as being violative of the provisions of Section 25 G and H of the Industrial Disputes Act.

20. Thus both the issue no. I and II are decided in favour of the second party workman Jummashah Nannnushah Diwan holding that the action of the management of the first party was not legal, proper and just.

21. The first party is directed to reinstate the present workman Jummarshah Nannnushah Diwan within 30 days from the publication of the award without back wages on the basis of the principle of 'no work no pay'. However the first party shall also pay Rs.100000/- (Rupees One Lac) in lieu of back wages and litigation expenses while issuing the re-instatement order failing which 6% monthly interest shall be chargeable.

22. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 16 अक्टूबर, 2018

का.आ. 1533.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 103/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.10.2018 को प्राप्त हुआ था।

[सं. एल-37011/05/2008—आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th October, 2018

S.O. 1533.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workmen, received by the Central Government on 16.10.2018.

[No. L-37011/05/2008— IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum-Labour-Court,

Ahmedabad,

Dated 05th September, 2018

Reference (CGITA) No. 103/2010

The Secretary,
Kandla Port Trust, Administrative Office,
Post Box No. 50, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Transport & Dock Workers Union,
21, Yogesh Building, Plot No. 586,
12-C, Gandhidham,
Kutch (Gujarat) – 370201

....Second Party

For the First Party : Shri K.V. Gadhia

For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/5/2008—IR(B-II) dated 24.10.2008 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Chairman, Kandla Port Trust, P.O. Box No. 50, Gandhidham, Kutch in non regularization of daily rated/ad-hoc workmen employed on compassionate grounds, who have completed two years of service in Kandla Port Trust is legal and justified? What relief the workmen concerned are entitled to?”

1. The reference dates back to 24.10.2008 and received on 12.11.2008 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. Today on 05.09.2018, the second party The General Secretary, Transport & Dock Workers Union, 21, Yogesh Building, Plot No. 586, 12-C, Gandhidham, Kutch, vide his letter Ex. 16 moved through his advocate Shri N.H. Rathod informs that most of the workmen concerning this reference have been regularised and rest of the workmen have not been responding, therefore, he (The General Secretary, Transport & Dock Workers Union, 21, Yogesh Building, Plot No. 586, 12-C, Gandhidham, Kutch) does not want to prosecute the case.
3. Thus the reference is disposed of as not pressed in non-prosecution of the case.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 16 अक्टूबर, 2018

का.आ. 1534.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 68/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.10.2018 को प्राप्त हुआ था।

[सं. एल-37011/16/2012-आई आर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th October, 2018

S.O. 1534.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Kandla Port Trust and their workmen, received by the Central Government on 16.10.2018.

[No. L-37011/16/2012-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 05th September, 2018

Reference (CGITA) No. 68/2013

The Secretary,
Kandla Port Trust, Administrative Office,
Post Box No. 50, Gandhidham,
Kutch (Gujarat) – 370201

...First Party

V/s

The General Secretary,
Transport & Dock Workers Union,
21, Yogesh Building, Plot No. 586,
12-C, Gandhidham,
Kutch (Gujarat) – 370201

...Second Party

For the First Party : Shri K.V. Gadhia

For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/16/2012-IR (B-II) dated 07.03.2013 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the KPT management in not regularizing the services of Shri Bawal Ilyas, D/R Khalasi even though he has completed 240 days in many years since the year 1998 is justified? What relief the applicant is entitled to?”

1. The reference dates back to 07.03.2013 and received on 05.04.2013 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. Today on 05.09.2018, The second party The General Secretary, Transport & Dock Workers Union, 21, Yogesh Building, Plot No. 586, 12-C, Gandhidham, Kutch, *vide* his letter Ex. 7 moved through his advocate Shri N.H. Rathod informs that the workman Bawal Ilyas was asked to appear before the Tribunal but he is not responding, therefore, he (The General Secretary, Transport & Dock Workers Union, 21, Yogesh Building, Plot No. 586, 12-C, Gandhidham, Kutch) does not want to prosecute the case.
3. Thus the reference is disposed of as not pressed in non-prosecution of the case by the second party workman Bawal Ilyas.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 2018

का.आ. 1535.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 129/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.10.2018 को प्राप्त हुआ था।

[सं. एल-22012/81/2015-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 17th October, 2018

S.O. 1535.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 129/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 10.10.2018.

[No. L-22012/81/2015- IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 29th day of August, 2018

INDUSTRIAL DISPUTE No. 129/2015

Between :

Sri Vempati Rajender,
S/o V. Kanakamallu,
H.No.14-3-77, Mettewada,
Warangal – 506 002.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramagundam -I Area, Godavarikhani – 505 209.
Karimnagar Distt. (Telengana State).

....Respondent

Appearances :

For the Petitioner : None

For the Respondent : M/s. Nandigam Krishna Rao & N.S. Pattabhi Rama Rao, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 22012/81/2015-IR(CM-II) dated 26.11.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Area, Godavarikhani, Karimnagar Distt., in terminating the services of Sri Vempati Rajeder, Ex- Badli Filler, GDK-2A Inc., SCCL, Ramagundam-I Area, Godavarikhani with effect from 6.7.2003 is justified or not? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 129/2015 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents by the Petitioner.

3. In spite of repeated calls, the Petitioner did not turn up. Several opportunities have been given to the Petitioner to attend the court to prosecute his case. No claim statement is filed in spite of taking several adjournments. Non-appearance of the Petitioner and non-filing of claim statement in time, clearly indicates that perhaps the parties have settled the dispute and the Petitioner has no claim to raise. Hence, it is not desirable to linger the case to any further date. Thus, the case of the Petitioner is closed and a ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 29th day of August, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 17 अक्टूबर, 2018

का.आ. 1536.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या एलसी 6/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.10.2018 को प्राप्त हुआ था।

[सं. एल-22013/01/2018—आई आर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 17th October, 2018

S.O. 1536.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. LC 6/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 10.10.2018.

[No. L-22013/01/2018—IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD

Present: Sri Muralidhar Pradhan, Presiding Officer

Dated the 31st day of July, 2018

INDUSTRIAL DISPUTE L.C. No. 6/2008

Between :

Sri Sandiri Sarangapani,
 S/o S. Mallaiah,
 R/o Q.No.D 304, Gandhinagar,
 Godavarikhani.
 Karimnagar District.

...Petitioner

AND

1. The Managing Director,
 M/s. Singareni Collieries Company Ltd.,
 Personnel Management Wing,
 Kothagudem. Khammam District.
2. The General Manager,
 M/s. Singareni Collieries Company Ltd.,
 Ramagundam Area-1,
 Godavarikhani.. Karimnagar District.

... Respondents

Appearances:

For the Petitioner : M/s. G. Sudha & A.V. Appa Rao, Advocates

For the Respondent : M/s. S.M. Subhani, Advocate

AWARD

This is a petition filed under Sec.2 A (2) of the I.D. Act, 1947 by Sri Sandiri Sarangapani, an ex-employee challenging his order of termination against the Respondent M/s. Singareni Collieries Company Ltd., seeking the relief to declare proceeding RG1/PER/S/46/4172 dated 12.8.2005 issued by the Respondents as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows:**

It is submitted by the Petitioner that he has been working as Shot Firer 'D' in Respondent company since 1990 and got terminated arbitrarily w.e.f. 18.8.2005 vide order No..RG1/PER/S/46/4172 dated 12.8.2005. The Petitioner has held various posts like, badli filler, mazdoor, coal cutter, timber man, and from the year 1991 as a Shot Firer and worked as 'D' Grade workman as per National Coal Wage agreement and was drawing salary of Rs.10,211.56/- P.M. It is further submitted that the Petitioner passed the statutory examinations as per the Coal Mines Regulations which made him eligible to hold the statutory post of Shot Firer 'D' Grade and thus since 1991 the Petitioner was working as Shot Firer to the satisfaction of his superiors. It is further submitted that the Petitioner got shattered with some family problems, such as the health of the daughter of the Petitioner whose marriage got failed which also resulted her mental imbalance which lead to discarding all other activities of the Petitioner to take care of his daughter. It is further stated that the Petitioner's daughter's condition deteriorated day to day and she became a chronic patient with mental illness, for which the Petitioner was constrained to take his daughter to various doctors out side the Godavari Khani area for best medical advice. It is also stated that due to all these problems, the Petitioner became sick and fell ill for a long time, could not attend the duties and he was also not in a position to communicate the reasons for not attending to his duties due to mental agony and pressure. It is submitted that the Respondent management initiated disciplinary action against the Petitioner on 5.5.2003 by issuing charge sheet No.RG1/GDK-7L/03/R-006/1004 for habitual absenteeism which was not received by the Petitioner as he was out of station for his daughter's treatment. Later another charge sheet No.RG1/GDK-7L/04/R-006/611 dated 16.3.2004 was issued to the Petitioner for habitual late attendance and absenteeism without sufficient cause. Though the Petitioner has submitted his explanation, an ex-parte enquiry was conducted, and without giving any order on that enquiry another charge sheet vide order No.RG1/GDK-7L/05/R-006/481 dated 1.3.2005 was issued to the Petitioner. The Petitioner has submitted his representation to consider his case on humanitarian grounds and assured that he will be regular to the duty, but the said explanation was not considered by the Respondent and a

dismissal order was passed w.e.f. 18.8.2005. It is also stated that the action of the Respondents' management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered 25 years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No.RG1/PER/S/46/4172 dated 12.8.2005 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, and back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

The Respondents filed Counter stating that the Petitioner was appointed in the Respondents' company on 26.3.1980 as badli filler and he was promoted as Shot Firer in Grade.D w.e.f. 1.6.1990. The Petitioner was dismissed vide order dated 12.8.2005 w.e.f. 18.8.2005 on proved charges of unauthorized absenteeism under company's Standing Orders No.25.25. The Petitioner remained absent from duty without leave or sufficient cause and put in only 64 musters during the calendar year 2003. Hence, he was issued with a charge sheet, though he acknowledged the same on 19.4.2004, he did not submit any explanation. Therefore, the Respondents' have issued enquiry notice to the Petitioner, but it was returned undelivered by the postal authorities. Another enquiry notice was published in Telugu Daily News Paper 'Andhra Jyothi' on 1.9.2004 advising the Petitioner to attend the enquiry on 10.9.2004. But the Petitioner neither attended the enquiry nor sent any information regarding the cause of his absence from the enquiry. Therefore, an ex-parte enquiry was conducted on 10.9.2004. It is submitted that the Respondents issued show cause notice enclosing copies of order of the ex-parte enquiry and report, and the Petitioner has acknowledged the same and submitted his representation dated 27.10.2004. It is stated that the Petitioner was counselled on 24.10.2004 before his family members, the trade union leaders, colleague workmen and officers and have been explained the consequences that arose due to the absence, and the Petitioner has submitted an undertaking dated 24.10.2004 assuring that he will put in more than 22 musters per month in future. But during the observation period from November, 2004 to January, 2005 his attendance was only for 41 days. The Petitioner he was issued with another charge sheet dated 1.3.2005 and enquiry was conducted on 4.7.2005, in which the Petitioner has fully participated. The enquiry was conducted following the principles of natural justice and the charges levelled against the Petitioner were proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondents were constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. The domestic enquiry conducted in this case was held valid and legal vide order dated 23.4.2010.

5. I have already heard the counsels from both the parties in this matter under Sec.11(A) of the Industrial Disputes Act, 1947.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Sandiri Sarangapani is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No. I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner argued that due to his illness and his daughter's mental sickness and other family problems, the Petitioner could not be able to attend his duty sincerely. The Petitioner was getting treatment at various surrounding hospitals for self as well as for his daughter. It is also argued that even in his show cause the Petitioner has mentioned the above facts but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness and the illness of his daughter and other family problems he could not be able to attend his duties regularly and remained absent, in such a circumstances the authority should have considered his case while imposing capital punishment. But the authority has not considered any of the submissions of the Petitioner, and has imposed capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated into service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, and has remained absent in

his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 48 years, he is now aged about 58 years, and is searching ways and means to provide bread and butter to his family members. The Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to the court at the age of 58 years to work under the Respondents. In such a circumstances, atleast one chance should be given to the Petitioner to work under the Respondents for himself and for his family members. Admittedly several modes of punishment are enumerated in company's Standing Orders. But the management has selected to impose capital punishment to the Petitioner. The Petitioner is a first offender and has worked for about more than twenty years under the Respondents. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Sandiri Sarangapani is not legal and justified and is liable to be set aside.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Sandiri Sarangapani is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding dated 31.8.2004 issued by the Respondents is declared as illegal and is hereby set aside. It is ordered that the workman Sri Sandiri Sarangapani be taken into service as a fresh employee i.e., Badli filler/ General Mazdoor in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of six months as per the option of the Respondents. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 180 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during the period of six months of service of the workman, he will be terminated from service without any further notice and enquiry and in case the workman completes the probation period of six months successfully he will be allowed to continue in service till the date of attaining his superannuation. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 31st day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 17 अक्टूबर, 2018

का.आ. 1537.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या एलसी 8/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.10.2018 को प्राप्त हुआ था।

[सं. एल-22013/01/2018—आई आर (सीएम—II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 17th October, 2018

S.O. 1537.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. LC 8/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 10.10.2018.

[No. L-22013/01/2018—IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 31st day of July, 2018

INDUSTRIAL DISPUTE L.C. No. 8/2011

Between:

Sri Badam Rajendra Kumar,
S/o Nagaiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

.....Petitioner

AND

1. The Director (P.A. & W),
M/s. Singareni Collieries Company Ltd.,
Kothagudem, Khammam District.
2. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bhupalpally, Warangal District.
3. The Dy. General Manager,
M/s. Singareni Collieries Company Ltd.,
KYK-1 & 1A Incline,
Bhupalpally, Warangal District.

... Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri S.M. Subhani, Advocate

AWARD

Sri Badam Rajendra Kumar who worked as Coal Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking the relief for declaring the proceeding No. CRP/PER/IR/D/95/1403 dated 25.7.2008 issued by Respondent No.2 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows:**

The Petitioner was appointed as Badli Filler w.e.f. 15/16.5.1988 and subsequently got confirmed as Coal Filler. The Petitioner submits that he fell sick during the year 2002, a cyst developed on his back and he was operated in company's Area Hospital in the month of August, 2002. Further the same cyst was developed again during the year 2003 and it was operated in the month of October, 2003 in the company's hospital. Thereafter, during the year 2004, a cyst was developed on Petitioner's leg, and it was operated in the month of April, 2004 in Company's hospital. Similarly, the Petitioner was operated 5(five) times at company's hospital, for removal of cysts on his body. Due to frequent ill-health, the Petitioner could not perform his duties regularly during the years 2002 and 2003. While the matters stood thus, a charge sheet was issued to the Petitioner by the Respondents alleging that the Petitioner absented from duty during the year 2003. The Petitioner submitted his explanation, but without considering his explanation, one inquiry was conducted, and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved, and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order dated 10.1.2008. It is stated that during the course of the enquiry the Petitioner has categorically stated about his inability to perform his duties regularly during the year 2003, was only on account of his ill-health. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents' management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered 20 years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order dated 10.1.2008 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, and back wages etc..

3. **The Respondents filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:**

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 20.5.1988. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner had participated in the enquiry which was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondents were constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the counsel for the Petitioner conceding the legality and validity of the domestic enquiry conducted in the present case, the domestic enquiry conducted by the Respondents is held as legal and valid vide order dated 23.1.2017.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Badam Rajendra Kumar is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner argued that due to formation of cysts on the body of the Petitioner one after another continuously and taking its operation, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact, but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing capital punishment. The authority has not considered any of the submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents argued that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by

the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness, undergoing surgeries, and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 45 years, he is now aged about 52 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. Though the Petitioner is a first offender and has worked for about 20 years under the Respondent, while imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Badam Rajendra Kumar is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Badam Rajendra Kumar is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. Therefore, in the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. RG.I/PER/S/46/5462 dated 21.9.2008 issued by the Respondents' Company is declared as illegal and is hereby set aside. It is ordered that the workman Sri Badam Rajendra Kumar be taken into service as a fresh employee i.e., Badli filler on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 180 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry, and in case the workman completes the one year probation period successfully he will continue in service till the age of his superannuation. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 31st day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 17 अक्टूबर, 2018

का.आ. 1538.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सिंगारेनी कोलियरीज कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह-श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 36/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.10.2018 को प्राप्त हुआ था।

[सं. एल-22013/01/2018—आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 17th October, 2018

S.O. 1538.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen, received by the Central Government on 10.10.2018.

[No. L-22013/01/2018—IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT AT HYDERABAD****Present:** Sri Muralidhar Pradhan, Presiding OfficerDated the 25th day of July, 2018**INDUSTRIAL DISPUTE L.C. No. 36/2009****Between:**

Sri A. Linga Murthy,
S/o Komaraiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Opp. Badruka Jr. College for Girls,
Kachiguda, Hyderabad.

... Petitioner

AND

1. The Chief General Manager,
M/s. Singareni Collieries Company Ltd.,
RG-1 Area, Godavarikhani,
Karimnagar district.
2. The Sr. Security Officer,
M/s. Singareni Collieries Company Ltd.,
RG-1 Area, S & PC Department,
Godavarikhani, Karimnagar district.

... Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

Sri A. Linga Murthy, who worked as Security Guard (who will be referred to as workman) has filed this petition under Sec.2 A (2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the dismissal order dated 14.9.2009 of the Respondents as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deem fit.

2. The averments of the claim petition filed by the Petitioner in brief are as follows:

The Petitioner has alleged in his claim petition that he was appointed as badli filler on 10.10.1987 in the Respondents' management and promoted as security guard in the year 1987. He had unblemished service career. While the matter

stood thus, a charge sheet dated 6.5.2006 was issued on him alleging that while the Petitioner was on duty on 9.2.2006, at about 12.30 PM the officials of Vigilance Department made a sudden check at Medipally OCP, Check Post, whereat the Petitioner was performing his duties and found an amount of Rs.1080/- in his possession. Further, it was alleged that, upon enquiry by the said officials of the vigilance Department, it was informed to them that the said amount was collected from the private lorries on 8.2.2006 and 9.2.2006 along with other two security guards and the said conduct amount to misconduct under company's Standing Orders No.26(2). The Petitioner submitted explanation dated 8.5.2006 denying the charges. Thereafter one domestic enquiry was conducted on 4.4.2007. The enquiry was conducted without giving proper opportunity to the Petitioner and without following the principles of natural justice. Ultimately, the charges levelled against the Petitioner was proved. The findings of the Enquiry Officer are not only perverse and also unsustainable in nature. Ultimately, the Petitioner was dismissed from service with effect from 14.9.2008 by the order of the Disciplinary Authority. It is alleged that basing on presumptions and assumptions, the charge lodged against the Petitioner has been proved and as such, the order of dismissal passed against the Petitioner is not sustainable in the eye of Law. The Petitioner also alleged that he is the sole bread earner of his family consisting of his wife and ailing mother, school going son and daughter. After the dismissal order passed, the Petitioner is leading a very miserable life. It is humbly submitted that the charge framed against the Petitioner is incorrect, the amount of Rs.1080/- was his personal cash and he has not collected the above amount from the private lorries as alleged. There is no valid evidence on record, only on assumptions and presumptions the Enquiry Officer held the charges as proved. Even the Disciplinary Authority has not considered the issue in a proper and prospective manner which resulted in great prejudice to the Petitioner. The order of dismissal from service is too harsh, excessive and disproportionate to the charges alleged. The Petitioner submitted to declare the impugned order No.RG.I/PER/S/46/5334 dated 14.9.2008 issued by the first Respondent as illegal and arbitrary and to set aside the same and consequently directing the Respondents to reinstate the Petitioner into service granting all other consequential benefits such as continuity of service, back wages and all other attendant benefits.

3. The Respondents filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:

The Respondents in their counter have specifically stated that the Petitioner was initially appointed as a badli filler on 10.10.1987 and promoted as security guard w.e.f. 9.5.1997. On 9.2.2006 while the Petitioner was working at Medapalli Opencast Project check post, a surprise check was conducted by the Vigilance Department at about 12.20 PM and the Petitioner was found possessing Rs.1080/-, on questioning the Petitioner revealed that the amount was collected by him and other two security guards engaged at Medapalli OCP Check Post in other 2 shifts on 8th and 9th February, 2006 from the private coal transport lorries passed through the Medapalli OCP check post. Basing upon such allegation, charge sheet was issued to the Petitioner under company's Standing Orders No.25.2 which reads as follows:

“Taking or giving of bribe or illegal gratification whatsoever in connection with the employer's business or in his own interest.”

Pursuant to the charge sheet the Petitioner submitted explanation on 8.5.2006 which was not found satisfactory, as such, an enquiry was ordered and during the enquiry proceedings the Petitioner has attended and fully participated in the proceeding. During enquiry proceeding the Petitioner also pleaded guilty of the charges levelled against him and requested to excuse him. He did not dispute either the conduct of enquiry proceeding or the findings of the Enquiry Officer. The Petitioner failed to establish his submissions with evidence. He did not produce any documentary evidence or witnesses to defend his case. After conclusion of the enquiry, the Enquiry Officer submitted his finding holding the charges proved. Ultimately, the Disciplinary Authority passed the order of dismissal from service. The Petitioner made an appeal to the Appellate Authority on 24.10.2008. The Appellate Authority confirmed the action taken by the Disciplinary Authority dated 22.1.2009 after thorough examination. It is stated that since the Petitioner is involved in taking bribe, the action taken by the Respondents' management is justified. There are no extenuating circumstances to take any lenient view in the matter. The charge levelled and proved against the Petitioner is being grave and serious, the penalty of dismissal from company's service muster on the Petitioner is justified. With the above averments the Respondents submitted for dismissal of the claim petition and also submitted that the order of dismissal passed against the Petitioner need no interference.

4. The domestic enquiry is held valid vide order dated 20.4.2011.

5. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri A. Linga Murthy is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

6. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

7. The Learned Counsel appearing on behalf of the Petitioner argued that the Petitioner was appointed as badli filler on 10.10.1987 in the Respondents' management and promoted as security guard in the year 1987. He was performing his duties sincerely and had an unblemished service career. While the matter stood thus, the Petitioner was issued one charge sheet dated 6.5.2006, alleging that while the Petitioner was on duty on 9.2.2006, at about 12.30 PM the officials of Vigilance Department made a sudden check at Medipally OCP, Check Post, wherein the Petitioner was performing his duties and found an amount of Rs.1080/- in his possession. It is further alleged that, upon enquiry by the said officials of the vigilance Department, it was informed to them that the said amount was collected from the private lorries on 8.2.2006 and 9.2.2006 along with other two security guards and such action of the Petitioner amounts to misconduct under company's Standing Orders No.26(2). Pursuant to the charge sheet the Petitioner submitted explanation dated 8.5.2006 denying the charges as false. Thereafter one domestic enquiry was conducted on 4.4.2007. The Petitioner participated in the enquiry. After completion of the enquiry the charges levelled against the Petitioner were proved. The Learned Counsel further argued that the findings of the Enquiry Officer are not only perverse but also unsustainable in nature. The Enquiry Officer has not conducted the enquiry properly. The Enquiry Officer has submitted his report to the Disciplinary Authority and ultimately, the Disciplinary Authority dismissed the Petitioner from service with effect from 16.9.2008 by order dated 14.9.2008. It is also argued that basing on presumption and assumption, the charge lodged against the Petitioner was proved and as such, the order of dismissal passed against the Petitioner is not sustainable in the eye of Law. It is also argued that the Petitioner is the sole bread earner of his family consisting of his wife and ailing mother, school going son and daughter. After dismissal of service the Petitioner is leading a very miserable life. The charge framed against the Petitioner is incorrect, and the alleged amount of Rs.1080/- was his personal cash and he has not collected the above amount from the private lorries. There is no valid evidence on record, to come to the conclusion that the Petitioner is liable for dismissal from service. The Disciplinary Authority has not considered the issue in a proper and prospective manner which resulted in great prejudice to the Petitioner. The order of dismissal from service is too harsh, excessive and disproportionate to the charges alleged. With the above submissions, the Learned Counsel submitted to declare the impugned order dated 14.9.2008 issued by the first Respondents as illegal and arbitrary and to set aside the same and consequently directing the Respondents to reinstate the Petitioner into service granting all other consequential benefits such as continuity of service, back wages and all other attendant benefits.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents contended that admittedly, the Petitioner was initially appointed as a badli filler on 10.10.1987 and promoted as security guard w.e.f. 9.5.1997. In the year 2006 while the Petitioner was working at Medapalli Opencast Project check post, a surprise check was conducted by the Vigilance Department at about 12.20 PM and the Petitioner was found possessing Rs.1080/-, and on questioning the Petitioner revealed that the amount was collected by him along with other two security guards engaged at Medapalli OCP Check Post in other 2 shifts on 8th and 9th February, 2006 from the private coal transport lorries passed through the Medapalli OCP check post. Basing upon such allegation, charge sheet was issued to the Petitioner under company's Standing Orders No.25.2. Pursuant to the charge sheet the Petitioner submitted his explanation on 8.5.2006 which was not found satisfactory, and as such, an enquiry was ordered and in the enquiry proceedings the Petitioner has fully participated and pleaded guilty of the charges levelled against him and also requested to excuse him. The Petitioner did not dispute either the conduct of enquiry proceeding or the findings of the Enquiry Officer. The Petitioner failed to establish his submissions with evidence. He did not produce any documentary evidence as well as oral evidence to defend his case and after conclusion of the enquiry, the Enquiry Officer submitted his finding holding the charges proved and it was ultimately submitted that the Disciplinary Authority also agreed with the findings of the Enquiry Officer and passed the order of dismissal from service. The Petitioner made an appeal before the Appellate Authority on 24.10.2008 and the Appellate Authority confirmed the order passed by the Disciplinary Authority. It is contended that since the Petitioner is involved in taking bribe, the action taken by the Respondents' management is justified. There are no extenuating circumstances to take any lenient view in the matter. The charge levelled against the Petitioner being grave and serious in nature, the penalty of dismissal from company's service passed against the Petitioner is justified. The Learned Counsel for the Respondents has submitted for dismissal of the claim petition and further submitted that the order of dismissal passed against the Petitioner needs no interference.

9. Admittedly, in this case one domestic enquiry has been conducted. The Petitioner has fully participated in the domestic enquiry and has also received the enquiry report, after receipt of the enquiry report, the Petitioner has submitted his show cause explanation to the Disciplinary Authority, who after receipt of the show cause and after perusal of the findings of the Enquiry Officer, agreed with the findings of the Enquiry Officer. The Petitioner has not adduced any evidence on his behalf to substantiate the charges levelled against him, but simply the Petitioner has submitted that basing on presumptions and assumptions the Petitioner was found guilty of the charges. The legality of the domestic enquiry was challenged before this Tribunal and after hearing both the parties and on careful consideration of the entire materials placed before this Tribunal, this Tribunal opined that the domestic enquiry conducted in the present case is legal and valid and no fault as found in it.

10. The Learned Counsel appearing on behalf of the Petitioner submitted that without any sufficient evidence the Enquiry Officer held the Petitioner as guilty of the charges. On the other hand the Learned Counsel for the Respondent submitted that even though the domestic enquiry was challenged before this Tribunal, after consideration of the materials available before this Tribunal, held the enquiry to be legal and valid. It is further contended that as long as the enquiry has been fair, proper and misconduct was proved, before the Disciplinary Authority, and now it is the court to decide the punishment. In support of his contention he relied on a decision reported in 2006 (LLR) page 252, between

Karnataka Bank Ltd Vs. A.L. Mohan Rao. He further contended that the Petitioner has not adduced any evidence before the court or before the Enquiry Officer. When no cogent evidence is available before the Tribunal, the Tribunal has to simply reject the claims. In support of his contentions, he also relied on a decision decided in the case of General Manager, Area-I, R.G. Division, M/s. Singareni Collieries Company Ltd., Vs. Presiding Officer, Industrial Tribunal and another reported in LLJ 2004(1) page No.698, wherein their Lordships observed at para 82 page 31, “We make it clear that Industrial Tribunal/Labour Court can not dispose any *lis* between the workmen and management, solely basing upon the pleadings. Such of the party, having invoked the jurisdiction of the Tribunal fails to produce the evidence, has to face consequences thereof. It is not for the Tribunal to invite the parties to lead evidence. The Tribunal has to simply reject the claim if no evidence is available on record. But we hasten to add that if a *lis* between the workmen and the management can be disposed of on the strength of the evidence let in by one of the parties, the Tribunal is entitled to dispose of the same on the basis of available evidence and in such an event the burden of proof may pale into insignificance. But, at any rate, the *lis* can not be disposed of in the absence of any acceptable evidence on record.” In the case at hand, simply, the Petitioner has submitted that basing on presumptions and assumptions the Petitioner was found guilty of the charges. In the instant case allegation is that the Petitioner has taken bribe and it was proved, so no leniency is to be taken. The Learned Counsel for the Petitioner submitted that the amount recovered from the Petitioner was his personal money, but simply believing that the money has been collected from the private lorries is not sufficient to hold the Petitioner as guilty of the allegations. In fact, the Petitioner has not satisfactorily explained before the Enquiry Officer that the money recovered from him is his personal money. Later though he has admitted that he has collected the money from the private lorries drivers it should not be accepted. In this case, allegation of taking bribe is made against a security guard, whose duty is to protect the interest of the management. But the workman has not proved his innocence by adducing cogent evidence. The Respondents have conducted an enquiry and in the enquiry, the Petitioner has been held guilty and the charges levelled against him have been well proved.

11. On consideration of the rival contentions of both the sides, this Tribunal is of the opinion that no satisfactory evidence is available before this Tribunal, to interfere in the order passed by the Respondents in the matter. Therefore, this Tribunal is of the opinion that the order passed by the Respondents is legal and justified and it needs no interference.

Thus, Point Nos. I and II are answered accordingly.

ORDER

The action of the management of M/s. Singareni Collieries Company Ltd., in dismissing Sri A. Linga Murthy, Security Guard vide order dated 14.9.2009 is legal and justified. Hence, the Petitioner is not entitled to any relief as prayed for.

Award is passed accordingly.

Dictated to Smt P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 25th day of July, 2018.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL